OVERSIGHT ON THE FEDERAL CROP INSURANCE PROGRAM

HEARINGS

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL
PRODUCTION, MARKETING, AND
STABILIZATION OF PRICES

OF THE

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AND FORESTRY
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OVERSIGHT ON THE FEDERAL CROP INSURANCE PROGRAM

THURSDAY, MAY 20, 1982

U.S. Senate,
Subcommittee on Agricultural Production,
Marketing, and Stabilization of Prices of the
Committee on Agriculture, Nutrition, and Forestry,
Washington, D.C.

The subcommittee convened, pursuant to notice, at 10 a.m., in room 324, Russell Senate Office Building, Hon. Thad Cochran (chairman of the subcommittee), presiding.

Present: Senator Cochran.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator Cochran. The hearing will come to order.

I would like to welcome everyone here today for the first of 2 days of hearings on the implementation of the Federal Crop Insurance Act of 1980.

As we know, farming is a high-risk business. Not only does a farmer face fluctuating prices in the market, he also faces losses due to natural hazards which are beyond his control.

Annually, only 83 percent of the acreage planted is actually harvested. In the past, the only alternatives for a farmer caught in a crop-loss situation was to borrow money to pay off that crop loan and then turn around and borrow to plant the next crop, or appeal to the Government for disaster assistance.

Such crop-loss situations are not uncommon, and have resulted in many farmers being put in a financially distressed condition. It was this problem that prompted the enactment of the Federal Crop Insurance Act of 1980. It was understood at the time this legislation became law that widespread participation by farmers was critical to the success of the program in meeting the needs of farmers.

To insure that farmers would be encouraged to participate in the program, the act purported to, first, expand the program to all counties and all major crops; second, provide sufficient coverage to protect the farmer's investment in the crop; third, provide for Government assistance in paying the premium costs to make the insurance affordable; and, fourth, provide for the use of private insurance-industry resources and expertise to assure an effective and efficient expansion of the program.

During this period of low prices, it is even more critical that farmers be protected against crop losses. Yet farmers, looking for ways to cut production expenses, are reviewing the cost benefit of crop insurance.

I am concerned that the combination of high premiums relative to the level of yield coverage and the current depressed state of the agricultural economy will result in many farmers deciding not to participate in the crop insurance program.

Inadequate participation would leave many farmers without protection against production losses. This creates a potentially dangerous situation.

The purpose of the hearing is to look at the crop insurance program from top to bottom to see how well it is working or not working.

We have witnesses representing the administration, farmers, the insurance industry, the financial community, and Members of Congress. We look forward to having the benefit of your thoughts and observations.

At this point, I ask that a statement by Senator Huddleston be inserted in the record.

[The statement follows:]

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM KENTUCKY

Mr. Chairman, I want to thank you for scheduling these oversight hearings on the Federal crop insurance program.

As we all know, the threat of natural disaster is something every farmer has to live with every day that his crops are in this field. It is extremely important that assistance be provided to farmers to help them cope with natural disasters.

The Federal Crop Insurance Act of 1980 was enacted to respond to this need. It established a comprehensive disaster insurance program to provide adequate coverage at reasonable prices for all U.S. farmers.

I think most farmers want this program to work and are willing to pay their fair share for equitable disaster protection.

With the legal authority for the program in place, the focus now must be on the efficient implementation of the program by the Administration.

These hearings will enable us to take a close look at the steps taken by Federal Crop Insurance Corporation to meet the goals of the 1980 legislation; and to determine how the program is being received by our Nation's farmers.

I am pleased that we will be receiving testimony from farm organizations, the insurance industry, and lending institutions, as well as the Federal Crop Insurance Corporation.

I am especially delighted that Senator Bentsen and Congressmen Hightower, Hance, and Stenholm are providing testimony today. Senator Bentsen has worked hard in the Senate to advance the interests of agriculture. I look forward to his testimony and that of his fellow Texans from the House.

Senator COCHRAN. This morning, our first witnesses include a panel of Members of Congress from the great State of Texas. We are very happy to welcome Senator Lloyd Bentsen, Congressman Kent Hance, and Congressman Charles Stenholm here with us this morning, and we ask you now, please, to proceed in any manner that you wish.

STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS

Senator BENTSEN. Thank you very much, Mr. Chairman.

First, let me thank you for holding these hearings, including my distinguished colleagues, Congressman Kent Hance and Congressman Charles Stenholm to have a chance to testify before you in this committee on Federal crop insurance. The distinguished Senator from Mississippi, who chairs this subcommittee, is well known for his support of the American farmer. He is deeply interested in the well-being of American agriculture, and I applaud him for holding these oversight hearings on Federal crop insurance. I think these hearings are timely, and that they are badly needed.

I know, Mr. Chairman, that you are totally committed to seeing that Government programs function as efficiently and effectively as possible, and I and the other members of this panel share that kind of commitment, and we are here this morning speaking for some of the concerns of the farmers of Texas.

Mr. Chairman, the Department of Agriculture has loudly hailed the Federal crop insurance as the safety net of the American farmer. They have rushed that into place very hastily, and they are using it as an excuse to drop other proven programs. Texas farmers, however, told me that this safety net is riddled with holes, and these holes have been papered over. Let me show you a copy of a magazine advertisement for the Federal crop insurance program. I am not going to read the entire text, but I ask that a copy of this be placed in the record.[1]

Senator COCHRAN. Without objection, a copy will appear.

Senator BENTSEN. Look at this. That is supposed to be a farmer going over there, and he is on a tightrope and there is a net below him. It says:

> Go ahead, expand your operation, more land, more equipment, go out and buy it, go ahead and borrow the money. With all-risk crop insurance, you have a sure source of repayment in bad years as well as good years. Take the risks out of taking risks by contacting your local insurance agency today.

That ad is ridiculous. Yet, that was a major theme in television, radio, and magazine advertising for Federal crop insurance. I don't know any knowledgeable adviser who is telling farmers to borrow money and expand their operations in the face of high-interest rates and high prices.

Most Texas farmers are just trying to hang on; and, in a lot of cases, they are not succeeding. But that is the kind of hyped-up message that the Federal crop insurance has been trying to sell our farmers. Is there any wonder they have a credibility gap?

I spent 16 years in the insurance business before coming to the Senate, and I can tell you you can't sell insurance with an attitude like that one. When the FCIC adds to cash-flow problems by collecting the premiums early in the year instead of at harvest, and they charge you 18 percent on the premium, that kind of credibility problem is not limited to Federal crop insurance. Real, net-farm income is the lowest since the Depression. The Secretary of Agriculture was given discretion and authority by the 1981 farm bill, but the response has been to stop publication of the traditional, monthly, farm-income estimates.

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[1] See p. 186 for a reprint of the ad referred to by Senator Bentsen.

USDA keeps saying that prosperity is coming maybe in a year or two, but farmers can't pay 18- and 20-percent interest with hope, and prosperity in a few years is small help to farmers who have gone under this year and many others who are probably going to go under next winter if the situation doesn't change drastically.

The USDA has been pointing to Federal crop insurance as the reason why further assistance to farmers is not needed. They have stampeded to dump the low-yield and the preventive-planting programs in favor of a hastily expanded Federal crop insurance program. Yet that is the same Federal crop insurance system that has been a management nightmare. They have had six managers in the last 2 years.

If USDA is going to ask farmers to rely on Federal crop insurance as a major part of that safety net, then it is imperative that the USDA deliver a workable, effective program. The farmers of Texas don't believe that is being done, not nearly as well as it should be, and I sure agree with them. USDA is asking farmers to trust their futures to a system that is lacking in many respects.

Congress provided the Secretary of Agriculture with the tools to help farmers in their time of need. Many farmers are rapidly approaching the end of their rope, and there is little or no help in sight. USDA's farm policy has to be judged by the bottom line, by results, not by rhetoric or not by intention. The Federal crop insurance program must produce good results.

Now, I heard you, Mr. Chairman, saying that it is not going to be effective unless you get wide use of it. That is right. These initial reports that I get just show us that what you have seen is the high-risk farmers taking it out and the others are not, and the other problem you have is in trying to estimate the production of crops.

I just think that you have seen a badly, poorly managed program, and I agree—you know, there are not many headlines on these oversight hearings, Mr. Chairman, and I understand that, and I am not sure many people get very involved, but I don't want this to be a green-shade operation, but I really believe you perform a major public service when you do this kind of auditing situation. I spent 16 years in business, and the one thing I understood is that you can expect what you inspect. That is exactly what you are doing here, inspecting to see why it isn't working. I congratulate you for it and am pleased to see you make this kind of effort. I have a deep concern about what is happening to the Federal crop insurance program, and these Congressmen from Texas do, and we appreciate the chance to be before you.

Senator **Cochran**. Thank you, Senator. I appreciate your remarks and the benefit of your thoughts and observations about this program.

I want to welcome Jack Hightower, another Congressman from Texas, who has joined the panel now. We appreciate your being here.

Mr. **Hightower**. Thank you, sir.

STATEMENT OF HON. KENT R. HANCE, REPRESENTATIVE IN CONGRESS FROM THE 19TH DISTRICT OF TEXAS

Mr. HANCE. Mr. Chairman, I appreciate the opportunity to be here, and I appreciate your holding these hearings.[1]

I don't have to tell you that we are in a bad economic situation in agriculture. There is a depression in agriculture in my district. The crop insurance program is just one factor we are examing. At the time the present crop insurance bill passed, I voted against it because I felt like the disaster program was a better program. I also felt that the farmers would not participate in the crop insurance program. I think the other members of the panel back me on this. The farmers haven't participated.

I want to hit on three specific areas to point out some places where we could have improvement: The first one would be the current cancellation of planting dates. Today, when the wheat farmers have a cancellation date of April 30, and they get the farmer at that date, he has not harvested his current year's crop, and there is no way he can make a possible decision on insuring the next year's crop before he harvests this year's crop.

Cotton farmers have until December 31 to decide on cancellation, and that is well after their harvest. I would like to suggest and urge the subcommittee to set all cancellation dates after harvest in order to give the farmers the benefit of being able to make the cancellation decision after harvest.

By the same token, the crop insurance sales date deadlines are scheduled too soon. Cotton farmers in my district are required to make that decision before they plant. Like the cancellation dates that I mentioned earlier, the farmer is forced to make the decision at the wrong time of the year, and as we well know, no one date would be fair to all farmers, and what might be fair to the farmers in Texas might not be fair in Mississippi and vice versa. But I think if you left the sales deadline for crop insurance to a county committee then that could alleviate the problem.

The FCIC regulations are littered with similar stipulations that often work against the farmer, and it makes you wonder why the farmers would even want to get into the crop insurance program. I would also refer to the practice of requiring farmers to report 15 days prior to harvest, whether that harvest will produce a crop that will require an insurance payment. The cotton farmer, for example, must even predict his yield per acre, and 15 days may sound like a reasonable amount of time to someone who is writing the regulations, but if it is hot you can move it up to 7 days and if there comes a rainstorm, you may go beyond the 15 days. It could turn out to be 2 or 3 months. In fact, we have seen farmers harvest cotton in Texas in January and February on some occasions.

The point is that if any farmer in my district would be able to predict 15 days before harvesting that he is going to harvest, he wouldn't need crop insurance, because he could predict bad weather or good weather. So that part of it, the 15-day rule, I think should be abolished, and I think the farmers should collect or not collect crop insurance, based on his harvest, and not based on the 15-day rule.

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[1] See p. 88 for the prepared statement of Representative Hance.

One other thing that I want to touch on is the current 5-year average that is computed by the FCIC. under the system. I think it is unfair to the farmer. For example, a farmer's crop, if it is destroyed for 5 consecutive years, and this has happened in west Texas, his premium would increase significantly. During that same period of time, if the farmer had 3 record years and 2 disaster years, then the zero years are averaged in with the good years and the farmer's FCIC guarantees decline. They kind of get him coming and going, and if he has a good year he doesn't need crop insurance, but if he has a bad year, it is not insured at its full potential. I think this sends wrong signals and that is a reason a lot of the farmers are just not going to sign up.

Insurance companies have a tendency to say, "We have to pay a higher payment, therefore, we have to charge a higher premium, because of the risk involved, and it is like someone who has been a bad driver. They have to raise the premium."

But the thing you have to look at is, the farmer has absolutely no control over the weather, whereas a bad driver certainly has some type of control over their driving.

I think the premium should be fair and equitable and should not factor in disaster years, and should give the farmer an honest premium. In return, it should provide the farmer an honest protection for factors over which he doesn't have control. I think that is the most important thing.

The last point I would like to raise, Mr. Chairman, is one regulation that I think is most ridiculous. My cotton farmers have to sign up for crop insurance on December 31, and the deadline for planting is June 1. Yet, if on June 1, if we have had a dry spell in west Texas, which is quite frequent, the farmers are urged to go ahead and plant in order to collect the crop insurance that they have already opted for, even though the farmer knows that is bad conservation practice. If a farmer plants when it is dry, the first gust of wind that comes up will take his topsoil to the next county. The farmer knows this, and tries to spend as little money as possible to qualify for the crop insurance coverage he has already signed up for.

This is the best example I can think of of crop insurance being drafted by someone not familiar with the insurance, and it encourages the farmer to practice bad conservation.

In closing, I would tell you that the program is not going to work at all unless significant and major changes are made. If there is, there might be a possibility of farmers starting to sign up, but I still maintain, and I think Congressman Stenholm's testimony is going to point out that the disaster program was not that bad, and that I think when you compare the two, that the diaster program comes out the best.

I appreciate the opportunity to be here, and we appreciate your having these hearings.

Senator Cochran. Thank you, Congressman. I think your comments and observations about the program will be helpful to us. We are going to have the administration witnesses next in a panel before us, and a panel of producers, as well, to follow them. Some of these questions that you raise, they will have an opportunity to address. This will be a very appropriate way to get to the bottom of some of these serious questions that confront farmers in this program.

Charles?

STATEMENT OF HON. CHARLES W. STENHOLM, REPRESENTATIVE IN CONGRESS FROM THE 17TH DISTRICT OF TEXAS

Mr. STENHOLM. Thank you, Mr. Chairman. I, too, commend you for holding these hearings for focusing on some very real problems. I have great confidence that some tremendous good will come as a result of focusing on the real problems we have in this area.

I would preface my remarks this morning, Mr. Chairman, by quoting a quote attributed to the late Will Rogers when he said, "It aint people's ignorance that bothers me so much. It is them knowing so much that aint so that is the problem."

I think that goes the longest way toward describing some of the problems we have had in trying to get an insurance program off the ground.

I would observe in 1975 I was fortunate enough to be appointed to the Texas State ASC Committee, thanks in good part to my friend, Senator Lloyd Bentsen of Texas. The first bill on crop insurance submitted to us that year on the committee as we started to move in the direction of the insurance program that all of us agreed was very much needed, the first bill was a good one. The first idea was a good one. But the legislation that we later reported through the House Agriculture Committee, and it was eventually voted on the floor, was not a good one. I am not here today to say, "We told you so," but I guess in one way we are, because one of the observations was that the insurance program was going to be more expensive and not work for the benefit of the farmer in the manner in which the legislation had passed.

I think this is now coming true. I would say, Mr. Chairman, that Federal crop insurance is a hot topic today. It is hotter in many areas than in other areas, but to say that farmers are not responding to this insurance program, I think, would qualify me as a master of understatement.

Let me tell you today what the people of the 17th District of Texas are telling me, my constituents. Specifically , I want to talk to you about Jones County, Tex., my home county in which my own farm is located. Farmers aren't buying. Slick advertisements may win trade association awards, but they can't sell a program that isn't a good buy, and that is what Federal crop insurance looks like right now to farmers of America. It is not a good buy.

I would say last year as we were attempting to make our own personal decision as to whether or not to purchase crop insurance on wheat, my banker advised me not to buy it, even with the economic conditions that Senator Bentsen referred to in the advertisement, even with those conditions that are very real, our bankers are advising us not to buy it. The cost is too high. The yield problems that Kent mentioned, and others, are all very real.

Now, let's take a look specifically at how this insurance works and compare it with the disaster program whose replacement by

Federal crop insurance, in my view, was something of a disaster. Suppose we have a wheat farmer in Jones County, Tex., near my hometown. What would happen in the event of a real disaster. If his farm is classed as area 2 and he insures at 75-percent coverage, he will be insuring for 10.5 bushels per acre. Further, suppose he insures for $3.50 a bushel; his premium works out to be $7.50 per acre. In the event of a total loss, the farmer receives, after deductions, $21.90. Well, you say, suppose the disaster wasn't total. Suppose the farmer made 8 bushels per acre. To collect Federal crop insurance, he has to harvest that wheat. If he does and sells it for $3.50 a bushel, he grosses $28 on that sale. Assume his combine and hauling expense to be $13 an acre. Subtract that from gross receipts. This leaves $15. Add in what he collects in benefits, subtract the premium and the net figure is $16.25.

Compare those two figures for a moment: The farmer ends up with $21.90 if he produces nothing; $16.25 if he produces eight bushels. The difference between the two figures is $5.65.

So what does that tell the farmer? It tells him this: If he is going to have a loss, he had better hope it is a total loss. He will lose money, but in this example he will lose $5.65 less by not producing anything at all. The moral of the story is that anytime you produce less than what the insurance covers, you have losses. The adjusters, of course, don't accept this, and require harvest for a settlement even where it doesn't make economic sense for the farmer to harvest.

Let's go back, now, to that $21.90 the farmer ended up with under the Federal crop insurance with a total loss. If the disaster program had been in effect, the story would have been different. If the ASCS-estimated yield for the same farm was 22 bushels per acre, then the disaster payment is based on 60 percent of that figure multiplied by the $1.91 disaster payment rate; the result is $25.21. That is $3.31 more than the farmer would have received under Federal crop insurance. Anyone who thinks that difference is not significant is invited to talk to the farmers of Jones County and see how they feel about the matter.

As it stands, Federal crop insurance is not perceived by farmers, no matter what commodities they raise, as a good investment, with precious few benefits. He can insure at most only a portion of his crop and the $20 is the average premium expense. That is a question that cries out to be answered.

Now, when I mention these and the immediate question that I am sure went to everybody's mind, is "OK, Congressman, the cost of the disaster program was greater than the insurance." Wrong. If you take the 6-year average of the cost of the disaster program, the average cost to the Federal Government has been $684 million.

The cost of the insurance program this year is estimated around $200 million with 19 percent participation. The disaster-coverage cost to our Federal Government over the past 6 years has been assuming 100 percent participation because all of those who participated in the Federal crop programs were covered in their respective crops.

So if we assume 35 percent coverage, twice what we now hope to get with the program as it is now operating, the cost to our Federal

Government this year for insurance will be in the neighborhood of $400 million.

If we get 100 percent participation, using the numbers and averages which I admit are not totally perfect, but I think they can give us a reasonable assessment as to what expectations we can see as far as the cost of this program, we are talking about an annual cost of something like $1 billion to provide the insurance program we are now providing for our farmers that is totally inadequate to meet the economic needs of our farmers.

This, I think, Mr. Chairman, we have to focus on. It is a budget issue to me. Of all days for us to be talking about costs and how we are administering the taxpayers' dollars, this is a good day to be talking about it, and I would like to underline and point out the major issue is budget impact in the direction we are heading if we don't make significant changes in this program.

Senator COCHRAN. Thank you very much, Congressman, for your comments and your testimony before the committee. I know it will be very helpful to us.

Jack?

STATEMENT OF HON. JACK HIGHTOWER, REPRESENTATIVE IN CONGRESS FROM THE 13TH DISTRICT OF TEXAS

Mr. HIGHTOWER. Thank you for the opportunity, Mr. Chairman. I did not know this was going to be Texas day. I am sure the problem is not limited to the State of Texas from what I have heard from other parts of the country, and also the fact that I am the fourth person to testify is really not as bad as batting cleanup, because these fellows haven't left anyone on base for me to bring in. But there are a couple of points I would like to make.

Before I do that, I might say that Merritt Sprague was very able and was doing a tremendous job over at the ASCS as Deputy Administrator for Commodity Operations. I suppose the Department considered this a promotion when they put him with FCIC, and I think if anybody could make it work, he could. I believe, though, that the statutory policies are such that it is going to be very difficult even for an Administrator like Mr. Sprague.

There are two issues that I wish to raise before this subcommittee: One is the question of the use of yield information that is available to FCIC through ASCS offices. The second concern is the fact that the transfer from international affairs and commodity programs sections to the small community and rural development area represents a view within the Department of Agriculture that crop insurance is not part of the overall commodity program and income protection. That is not a concern of FCIC.

I have many letters and many calls from people that want to know why the base production is so often different from ASCS figures and FCIC.When I asked the Federal crop insurance officials why ASCS-established yields cannot be used, I have been told those yields don't work for crop insurance. The Federal Government will pay well over a million dollars in deficiency problems based on the ASCS this year. We can't have it both years. ASCS figures have been used for years and are uniform. The farmers in my district have confidence in these offices, but not in the crop insurance program.

This question has not been addressed on the other side of the Capitol Building, and I think it should be addressed over here.

The second question concerns the basic purpose of the Federal crop insurance program. What role should this Corporation play in the future of farming? Is it the intention of Congress to construct a private company to protect farmers?

The FCIC should not forget that it is publicly chartered and has a responsibility that is far greater than that of a private company. I don't question that Under Secretary Naylor has any less concern for the farmer. My strong feeling is, though, that the entire program should be conducted in a way that is consistent with the need of the farmer to make a profit.

There are some who feel that I am against crop insurance back in my district. I feel the disaster program would have been better for the farmer than the expanded crop insurance program, but that is history. What each of us want to have is a program that protects the farmers against events over which they have no control with as little cost to the taxpayer as possible. This should be the clear goal of the Department of Agriculture and anything that interferes with that should be changed and changed immediately. So we hope we will have an opportunity to fully address the changes that must be made if we are going to have any real protection for the producers of America.

Thank you very much, Mr. Chairman.

Senator COCHRAN. Thank you very much, Congressman. These are questions that we will be asking of witnesses who will appear before the panel this morning and tomorrow. We appreciate very much your mentioning them. The concerns that you are receiving in your letters and phone calls are similar to some of the concerns that have been expressed to me and I know other members of the Senate Agriculture Committee as well.

I really appreciate your testifying at the hearing this morning. It gets us off to a very good start and highlights some of the critical concerns we have about the program, and I think we will be able to find answers we need as a result of your presentation this morning.

Our next panel is the administration panel. We want to welcome Frank Naylor, Under Secretary for Small Community and Rural Development of the U.S. Department of Agriculture, and Merritt Sprague, Manager of the Federal Crop Insurance Corporation of the U.S. Department of Agriculture.

We appreciate very much your being here, and we would invite you to make whatever statement or presentation to the committee that you feel would be helpful to us in those subject areas we are looking at and the concerns that have been expressed by the members of the Texas delegation who started off the hearing. I invite you to proceed as you wish, and we will have questions and discussion on some of the items in more detail.

STATEMENT OF HON. FRANK NAYLOR, UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. **NAYLOR**. Thank you very much, Mr. Chairman. On behalf of the Administration, I want to express our appreciation for your calling these hearings and giving us the opportunity to review with you the Federal Crop Insurance Corporation's operation.

I do not have a prepared statement, but would like to make just a few general comments about the Corporation, and I have asked the Administrator, Merritt Sprague, to prepare a statement and review it with specific details concerning our plan of action for the Corporation. Upon its conclusion, we will have a few comments, if that is acceptable.

Senator **COCHRAN**. That will be perfectly fine.

Mr. **NAYLOR**. I think it is appropriate, for the record, to place in history and perspective the crop insurance program. Crop insurance has had a long history, in some respects a volatile history. In 1946, ironically, because of cotton problems in Texas, the Congress of the United States put the Crop Insurance Corporation out of business. After a couple of years of review of the problems associated with crop insurance at that time, the program was renegotiated on a pilot basis under very strict congressional oversight and congressional control.

The program has remained essentially a pilot program ever since then. The agency has been a small agency. There has been a limited amount of activity in the Crop Insurance Corporation over the years. It has become a very stable agency in the sense that, while small, it had its constituency, it had its area of service, but it did not grow very much, despite repeated legislative recommendations to Congress.

The Corporation operated relatively smoothly within the context of the law at that time. With the passage of the Federal Crop Insurance Act of 1980, however, this small agency, with limited experience in certain areas, was asked to expand to an insurance corporation, almost at once, that would place it among the largest insurance companies in the United States. I think that both political parties, on a bipartisan basis, in passing that legislation had great hopes that this program would be a long term and appropriate solution for the disaster problems faced by American farmers. I believe it can in fact, very well serve that purpose.

There has been a genuine effort on the part of all those associated with the program to respond to the congressional mandate and to expand the program in a way and in a form which the legislation directed.

I would have to say as a practical businessman, however, that the rate of expansion probably exceeded what any reasonable business, certainly any reasonable insurance company, would attempt in the period of time allotted. As a result we experienced a number of problems; a number of legitimate complaints have been made about the way the program has been operated during the first year of growth and expansion to meet this new legislative mandate.

In our judgment, we have learned a number of lessons, and we hope we have learned them well, because it is our intent to do and carry out the mandate of Congress. The administration continues to believe that crop insurance is an appropriate method of dealing with disaster problems faced by producers, but it has to be applied equitably, offered at a reasonable cost, and the program has to be managed soundly and fairly. I think we have learned during this first year and we are preparing to take a number of steps that will respond to criticisms and concerns expressed by both the farming community and the insurance industry.

We have spent the last 8 weeks carefully analyzing the results of the first year's operations, really a year and a half, under the new legislation. We believe we have the necessary management and personnel coming into place, beginning with Mr. Sprague as our Administrator, to get the job done. It will not happen overnight; it is a tedious process that will require a massive effort by all parties concerned.

We are confident that the problems we have seen are soluble, and there is no reason why we should not expect the program to succeed if we go about our business and do it properly, and respond to the criticisms and concerns which have been raised.

With that, Mr. Chairman, I would like to ask Mr. Sprague to review with you the specific findings, and the directions we would propose to take, much of which will deal with some of the questions raised here already.

Senator **Cochran**. Thank you very much, Mr. Secretary. Mr. Sprague, please proceed.

STATEMENT OF MERRITT SPRAGUE, MANAGER, FEDERAL CROP INSURANCE CORPORATION, U.S. DEPARTMENT OF AGRICULTURE

Mr. **Sprague**. Good morning. Mr. Chairman and members of the committee, I appreciate this opportunity to appear before you and bring you up to date on the status of the Federal crop insurance program.

The Federal Crop Insurance Act of 1980, approved on September 26, 1980, provided for a nationwide all-risk crop insurance program. This legislation removed the previous legal limitation on the rate of crop insurance expansion into new areas and on the number of commodities insurable. Some of the significant features resulting from the legislation include a Federal subsidy for a portion of the premiums of insured agricultural producers and expanded utilization of the private insurance sector.

The act authorizes the use of established private insurance companies to assist in marketing, delivering and servicing on a major portion of the all-risk crop insurance in force. The Federal Crop Insurance Corporation will continue to administer and control the program, perform the actuarial function and establish the rate structure. FCIC will also conduct research, establish pilot programs, carry out quality assurance and assume all or a portion of the risk.

On April 5, 1982, I became Manager of the Federal Crop Insurance Corporation. I view this new responsibility as a challenge and as an exciting opportunity to make a worthy contribution to the farm community. The first thing I did as Manager was to find out the objective of the Federal Crop Insurance Act of 1980. That objective was determined to be the stabilizing of farm income by providing insurable farmers with crop insurance. This is to be done on an actuarially sound basis as a protection against risks and economic losses resulting from natural hazards. The second action I took was assessing how effectively and efficiently the Corporation was meeting that objective. I felt by determining the answers to those two questions I would be better able to provide the kind of direction and take the kinds of actions necessary to make Federal crop insurance a more viable program.

During the process of my review, it was discovered that no major reorganization of the Corporation had been fully implemented since major changes in the operations of FCIC were directed by the 1980 act. There was a reorganization package submitted by FCIC on August 7, 1981, and approved by the Department on November 25, 1981. That plan was implemented to the point of setting up the new structure, classifying the principal positions and detailing individuals into those positions.

While we believed that structure was workable, some improvements were needed to make it even more efficient. On April 14, 1982, a reorganization plan was recommended that had three major changes from the one initially approved by the Department last November. Those changes are:

There is a single Director of Operations in charge of the Kansas City office; the Reinsurance and Program Development Divisions are incorporated into other divisions, and the Finance Division is incorporated into the Comptroller Division.

We have determined that FCIC suffers from lack of central planning. There is insufficient coordination, analysis, and evaluation of overall methods of operations. A prolonged period of organizational instability has created a sense of insecurity within the staff and has visibly affected morale, coordination, and the general understanding of responsibilities. The reorganization plan that we have submitted will help to solve that situation. Because of the urgency involved, June 26, 1982, has been selected as the target date for implementation of all components of the reorganization.

The title of the chief executive officer will be changed to Manager to reflect the language of the statute authorizing FCIC.

In regard to specific personnel, Dean Mitchell will join FCIC on May 24, next Monday, to be Director of the Kansas City national service office. He is a former executive vice president of the Farm Bureau Life Insurance and the Farm Bureau Mutual Insurance Co. of West Des Moines, Iowa.

The assessment of how effectively and efficiently the Corporation was meeting the objective of the 1980 act has made it evident that other areas need prompt attention as well, to further streamline the FCI program.

It now appears the rate of growth may be somewhat slower than originally anticipated. Current estimate for 1982 premiums is between $400 to $450 million instead of the $540 million estimated previously. Participation for 1982 should be about 19 percent. The number of contracts for 1982 are likewise lower than original estimates. I would like to point out that, while these numbers are lower than what was projected, they do indicate a trend of growth compared to 1981. Exhibit I of this statement will give a good comparison of the 1981 crop year and what we hope to achieve in the 1982 crop year.

We will continue, Mr. Chairman, to give high priority to expanding coverage of the crops which formerly were eligible for the ASCS disaster program. These crops are barley, corn, cotton, grain sorghum, rice, and wheat. Other crops that will receive considerable attention for expanded coverage are peanuts, tobacco, oats, and soybeans. These are the 10 most widely grown crops in the United States.

In order to make Federal crop insurance more attractive to all farmers, added emphasis will be placed on adjusting premium rates in order to make them more reflective of the actual risks assumed. Procedure has been issued for the individual yield coverage plan [IYCP], for corn, barley, grain sorghum, wheat, upland cotton, rice, and soybeans. This program will be expanded to include other crops as rapidly as possible.

In an effort to improve the actuarial department, on May 10, 1982, we engaged a consulting firm, Ernst and Whinney, to perform an independent, management-level review. This review is being made of the Corporation's management information and actuarial practices and procedures. Concentration is on rate setting and underwriting practices and procedures; content, maintenance, and control over the premium and loss statistical data base; loss recognition and reserving procedures and practices and claim processing procedures.

To meet our goals of expanding coverage to new crop programs, we must acquire additional manpower with actuarial expertise.

Marketing is another area which will receive considerable attention. Plans will be made to develop a positive educational program with the major farm organizations and financial groups in order to encourage wider acceptance of the crop insurance program. Changes in procedures are being planned to insure the proper flow of information to and from all agents and reinsurance companies and to insure timeliness of payments and related marketing-support material.

The FCIC board of directors, in its May 11 meeting, approved six items in regard to master marketing contracts which are designed to improve the quality of the delivery system. Those items are as follows:

A resolution that the agreement for master marketing agencies presently in use is effective for the 1983 fall crops only. A new agreement will be drafted for 1983 spring crops. At the same time, we are notifying the agencies involved of the requirements that are likely to be included in the revised agreement. We took these steps in that May 11 board of directors meeting, a requirement that, effective with the 1983 spring crop sales, agents are to receive 20-hours' certified training for each crop to be sold. The Corporation will provide the training at the agent's expense and may require a reduced number of hours for the second crop or the third crop, etc. if they are similar.

A requirement that, effective for the 1984 crop sales, agents, companies, and brokers will be required to be licensed under applicable State laws wherever they do business.

A requirement that a master marketing agency be liable for the collection and payment to the Corporation of premiums in the same manner as in the reinsurance contract.

A requirement that no sales agent or agency working under an outstanding agency sales and service agreement may also perform loss adjustment work for the Corporation under a loss adjustment and contract service agreement.

We intend to have immediate establishment of financial standards for master marketing—agency sales and service agreements—agencies prior to entering into the 1983 agreement. Each of these changes reflects a need that was brought to the Corporation's attention, arising from problems. Each is an answer to a serious problem that we have had in our operations over the last year.

In addition, the board at its May 11 meeting approved the following items to amend the 1983 crop year loss adjustment contracts:

Effective with the 1983 crop, no one working under a loss adjustment contract may sell crop insurance for the crop year of the contract or in a subsequent crop year.

Also effective with the 1983 crop, the method of compensation for loss adjusters will be changed from unit rate to a per diem rate basis. Each of these moves is an attempt to solve a problem that has been pointed out to us in our operations.

Efforts will be made to inform as many farmers as possible about the crop insurance program, especially in those areas where crop insurance did not exist prior to the enactment of the FCI Act of 1980. Although the Corporation uses various media to accomplish this task, I feel that much more needs to be done to increase the farmers' awareness of the benefits of having crop insurance as a protection against crop losses due to hazards beyond his/her control.

Plans are under development to extend reinsurance to Puerto Rico as part of the Caribbean Basin Initiative. Negotiations regarding terms of the agreement are expected to be concluded within the next 12 months.

Mr. Chairman, while I have not been altogether positive in this statement, I firmly believe the actions that have been taken and the actions planned will be instrumental in the overall improvement in the Federal crop insurance program. I believe that our next report before this committee will show expansion and growth of the Corporation as it was intended in the act of 1980.

Personally, I have profound faith in the potential of the Federal crop insurance program. I have been a farmer most of my life, Mr. Chairman, and for at least 3 years out of the past 7 or 8 all of the cropland on my home farm was insured by Federal insurance contracts. I have been through a claim's experience as a farmer. I understand how that program works from the perspective of farmers. I think this is a difficult but exciting period in the history of this Corporation. I believe that the Federal crop insurance and the Corporation can rise to the needs of the occasion, and be the kind of a success that the Congress envisioned when they passed the 1980 act. But at the same time, I think it is essential to say that I am committed to a program that is actuarially sound. It is true that it must be attractive to farmers. It is true it must be attractive to salesmen, sales agents, and sales agencies, but it must be attractive to the U.S. taxpayer as well. We do have a tremendous communications and educational challenge ahead of us in order to reach as many producers as possible, so that they can be aware of the benefits of the program. But I think there is hope for the future, Mr. Chairman, and with that note I would like to close by thanking you for this opportunity to appear before this committee, thank you for your support and for the confidence that your committee has placed in us to administer this important program.

EXHIBIT I.—ESTIMATED PROGRAM INDICATORS

	Crop year	
	1981	1982
Number of States	40	49
Number of counties	1,928	2,999
Number of county programs	5,969	14,498
Insurance in force (thousands)	$6,065,230	$7,000,000
Insured acreage (thousands)	47,216	54,000
Potential acreage (thousnads)	242,682	282,500
Participation (percent)	19	19
Number of contracts	323,913	365,000
Number of crops endorsements in force	495,058	547,500
Premium (in thousands of dollars):		
Producer premium	330,098	316,000
(Government operations)	(318,339)	(243,000)
(Reinsurance operations) [1]	(11,759)	(73,000)
Subsidy	46,864	[2] 116,000
(Government operations)	(45,888)	(89,000)
(Reinsurance operations) [1]	(976)	(27,000)
Total premium	376,962	432,000
(Government operations)	(364,227)	(332,000)
(Reinsurance operations) [1]	(12,735)	(100,000)
Indemnities (in thousands of dollars)	398,778	388,800
(Government operations)	(391,085)	(298,800)
(Reinsurance operations) [1]	(7,693)	(90,000)
Loss ratio	1.06	.90
Reinsurance underwriting: Gain (+) or Loss (−) (thousands)	+$3,502	+$5,336

[1] These amounts will appear on the books of the reinsured companies. The Corporation records will only reflect net "reinsurance underwriting gains/losses."

[2] The fiscal year 1983 budget (which reflects crop year 1982 program results), includes $145,575,000 for premium subsidy based on premium of $540 million. Since premium for crop year 1982 is being revised downward to $432 million, subsidy is also being revised to reflect the lower program level.

Senator **COCHRAN**. Thank you. I appreciate your views of the Federal Crop Insurance Corporation from the point of view of the Manager. We know you have been in that position only for a short period of time, and we understand Secretary Naylor has also been in a position of supervision of the activities of the Corporation for only a short period of time. We recognize that you are both basically new in the job, and we appreciate your being here and helping us look at the program to try to find out how it can be improved.

First, I would like to have your reaction to the statement made by Congressman Hightower indicating some concern with the change in the administration that has taken place with respect to the Federal Crop. He seemed to worry that this might be an indication of lack of commitment to have a workable program, transferring it from one division of USDA to another. What is your reaction to that? Does it symbolize lack of interest or concern on the part of the administration toward getting to the bottom of the problems that Federal Crop has so that it is a workable program?

Mr. NAYLOR. On the contrary, Mr. Chairman, I think it reflects the recognition within the Department of an absolute commitment on the part of the Secretary, the Deputy Secretary, and myself, to the sincere belief that the crop insurance program can and will work if given the opportunity to do so, and if we have adequate time to solve and correct the problems as they develop during the first part of the operation of the program.

The principal reason for the change is the recognition that the insurance program and its operation is basically a financial and financially oriented type of program, and it is very parallel to, and faces kinds of problems faced by our other financial agencies within the Department of Agriculture.

The transfer provided an opportunity to establish a change, and the Secretary elected to make that change a little over 8 weeks ago. We believe the problems during the first year under the new act can be solved and will be solved, and we firmly believe there are a number of programs, both within Farmers' Home and within the commodity area which will be profoundly affected in a positive way by the success of the crop insurance program.

As you know, Mr. Chairman, I have previously been associated with the Federal Crop Insurance Corporation in my own Government experience, and I remain convinced that crop insurance is perhaps the best solution in dealing with disaster problems repeatedly faced by American farmers. I am familiar with these problems, and so is Mr. Sprague. We intend to see Federal crop insurance succeed and we will expend whatever management requirements are required to see that it does succeed.

Senator COCHRAN. There was another expression of concern about the method used to determine yields, in trying to calculate how much coverage would be available for a farmer if he takes out Federal crop insurance. A 5-year average is used, according to Congressman Hance. This includes good years and bad years and doesn't necessarily reflect, therefore, what you might want to insure your crop for. I think Congressman Hightower also mentioned there was another available source for that yield information, and it was ASCS-established yields.

What is your reaction to those questions and concerns that were raised by both of those Congressmen? I have heard many farmers in my State and other States express similar concern.

Mr. SPRAGUE. With all due respect to the opinions of Congressmen Hightower and Hance and anyone else who raised them, there indeed is some difference in the yield between ASCS program yields and what we will oftentimes insure on the same farm.

Part of those differences relate to the differences between the programs, and the calculation and the formulas that were used to calculate the yields.

In many cases in the past, in establishing ASCS program yields employees have been willing to throw out the poor years; in other words, just simply not average in the poor years. This has resulted, in many cases, in overstatement of the average yields.

We are running an insurance program, and an insurance program is substantially different from the disaster program previously administered by ASCS.

Our program most be statistically sound. Our program must have a fair premium relative to the risk assumed. If we do not have such a set of circumstances, then the good farmer is subsidizing the poor farmer. It is essential that our premiums directly relate to risk, and if an area had five consecutive crop failures, I think even the fairest man in this room has got to admit that area should have a higher premium for risk of failure than another area which did not have that kind of experience.

Senator **Cochran**. There has been some difficulty in trying to determine the average yield in certain areas of the country, particularly those where crop insurance has not been available previously. What is your idea at this point about the existence of inequities in the current method for yield determination where those county averages are not available, for one reason or another? Will it be possible, to tell farmers that there will be a point in the administration of this program where you will be able to offer yield coverage based on a single farm's actual production history?

Mr. **Sprague**. We now have the individual yield program. The program is relatively new this year. It has not been used to a substantial degree yet. It offers the opportunity for an individual producer to prove the yield on his farm through ASCS records and, if he meets the rules and requirements, he can have coverage that directly reflects his individual yield experience.

Now, having said that, I have not quite addressed all the questions that you asked. We lack—I lack personally—full and complete confidence in our actuarial tables and our rate structure. We are going to spend a major amount of effort on determining what should be done to improve our actuarial structure. We recognize some weaknesses. We recognize that there are indeed some inequities as relate to rates, as relate to yield coverages. It is going to take some time to solve that problem. A major effort in the actuarial division in the last year has been spent on expanding to new counties and new areas. Sometimes that work was done in less time than should have been allocated for it. But at the same time, a situation has been created where the Actuarial Division has not had time to go back and rework counties with existing programs.

Senator **Cochran**. As a practical matter, if in applying for a Federal crop insurance contract a farmer is disappointed or disagrees with the yield established by the Corporation for the coverage, what recourse does that farmer have. Can he appeal to anybody? Is there a county committee that is looked to to settle the dispute, or is he sort of in a take-it or leave-it situation?

Mr. **Sprague**. Well, we do have some appeal provisions. We do not have a system comparable to ASCS. I think perhaps there is room for improvement in our field situation.

Senator **Cochran**. Is there any consideration to giving a county committee, such as we have in the elected committeemen, or some other group, an opportunity to review and comment, or do you just look to agents or actuaries, wherever they are, to give you that information?

Mr. **Naylor**. No, Mr. Chairman, we do not anticipate any system such as you describe. The insurance business is very much a statistical business. There are generally records available in some form. It is my belief that the fundamental flaw that existed in the past, and that tended to increase the use by producers with poor experience, was the countywide type of offer that applied to all producers; a producer who has had below-average experience had lower coverage than a good producer who produced substantially above the county average.

It is my belief that the individual-yield coverage policies, where the farmer can establish, through his own records and through ASCS, his proven yield, and what he is capable of producing, will resolve the question which you have asked and will serve as a major enticement to the good producers who participate in the program; this is a must if we are going to succeed in attracting the required level of coverage.

The other problem which Mr. Sprague faces is whether or not the percentage rate charged is fair and equitable. We do have some evidence that the rates established do not accurately reflect the conditions that exist in many major producing areas of the country.

In other words, we have some indications that there are instances, and we are still attempting to determine how widespread they are, where the rates on good land are too high, the rates on poor land are too low. The maps in use do not always appear to reflect the growing conditions used in setting these rates, and the various factors taken into consideration do not always accurately reflect the conditions that actually exist.

The result is that some good producers have legitimately complained that their rates are disproportionate.

As Mr. Sprague indicated, a high priority must be that we get back into existing and long-established counties to make corrections and update our tables so they fairly reflect risk and appeal to the better producers.

Senator **Cochran**. Because of some of these problems that have been discussed by you and others that were brought up by the Members of Congress who were here, some farmers have just decided to take the risk themselves rather than come up with this premium money on the front end in the crop year. Many feel that it not a good buy.

According to figures that have been supplied to the subcommittee, the participation rate does look as though it is less than what had been expected, or the level of participation that the Corporation had hoped for.

For instance, in 1981, the average participation rate for cotton was 11 percent; for corn, 13 percent; for wheat, 31 percent; for rice, 11 percent.

What that indicates is that there is an awful lot of acreage out there in the major commodity areas without any disaster protection at all. That raises an awful lot of concern, a major concern, I think.

Are we behind schedule, in your judgment, in the planned level of participation? If so, what level of participation do you consider adequate to avert a potential economic disaster if we are confronted by a major crop loss?

Mr. **Sprague**. Keep in mind that there was a doubling in the acreage coverage and the premium income between the 1980 and 1981 crop years. It does not look like we are going to double between 1981 and 1982. In fact, we are just going to hold our own and maybe gain 5 or 10 percent in terms of acreage coverage and premiums.

I think there is an economic factor out there today that has had a large impact upon the ability to sell Federal crop insurance contracts in and for the 1982 crop year. The economy has been such that farmers had to buy their diesel fuel and seed, but Federal crop insurance was an optional contract. I think we have failed to pick up some increased business this year that would have logically come if times had not been quite as bad as they have been.

Mr. **Naylor**. Mr. Chairman, historically it is typical that after a good crop year, if moisture conditions are good in the beginning of the growing season, many producers elect to take the risk themselves, acting in expectation that they will obtain a good crop. Combine this with Mr. Sprague's observation that there were major problems during the first year of the program—a year of growth and learning—and it is clear that we did not see the problems and anticipate them.

As we get this program developed, as we learn from the lessons we had last year, we will see a resumption of growth. One of the most significant factors is the private sector's contribution to FCIC's growth last year. Preliminary estimates indicate that while there was virtually no private-sector activity last year—about $12 million worth of activity—fully 25 percent of the total volume of crop insurance this year will involve the private sector, offsetting some decrease in the direct Government activity.

That is a good sign. A good deal of the success of this program depends on continued expansion, growth and participation by the private sector with its trained agents, its personnel and experience in developing a program for the farmers and ranchers of this country.

Senator **Cochran**. We have a vote on the floor. The subcommittee will stand in recess for a period of 10 minutes. We will be right back. There are a few more questions I would like to cover before you leave.

Mr. **Naylor**. Certainly.

[Recess to vote.]

Senator **Cochran**. The subcommittee will come to order. We will continue with the questions of the panel.

As everyone probably realizes, we have the budget resolution on the floor of the Senate at this time. We will be having votes, it appears, on amendments during the course of the day and late night they tell us. That reminds me of the observation that one of our previous witnesses made, and that was the question about the budgetary impact of our crop insurance program. A suggestion was made that the disaster assistance program that the Federal Government had in place in years past is more cost effective in terms of expense to the Federal Government.

Is this a major concern of the administration at this time; and, if so, is there a plan or an intention to recommend that we repeal the Federal Crop Insurance Act and go back to some form of low-yield disaster program?

Mr. NAYLOR. No, Mr. Chairman. On the contrary, the administration remains convinced that, if run properly and operated in the interests of farmers, this is the best solution both to the farming community, the agricultural community, and to the American taxpayers. We do have the farming community itself participating in this program.

To a large degree the heavy expenses in the beginning years of the program are startup costs—getting the program underway. A properly run insurance program will serve the interests of the taxpayers better than the previous disaster program. Special programs tend to deal with individual and specific disasters. No special program yet developed covers all circumstances that producers might meet. If you add together all these special programs, the cost is very substantial to the taxpayer, and does not necessarily solve the problems of all farmers and ranchers. We believe the crop insurance program will solve those problems, and do it more economically and more fairly to both the farmer and the taxpayer than previous programs, including the one you specifically referred to.

Senator COCHRAN. Is the key to success in this program the implementing of the changes that you have outlined for us this morning, plus getting a level of participation from farmers that is adequate to provide the financial resources to operate the program along a sound economic basis?

Mr. SPRAGUE. There is no question but that we need maximum participation of the producers to widely share the risks. Without maximum participation, it is very difficult to build the kind of premium structure and the benefits that would be advisable.

At the present time, it would appear that we are insuring, frankly, the poorest farmers in this country, not completely, but at least a major share of our business is represented by the poorest farmers on the poorest land.

This is an unfortunate position to be in if you are an insurance company. It has a tendency to make rates unattractive to other people. We have got to find a way to address this problem and increase participation.

Senator COCHRAN. What are your plans for getting that level of participation up? What specifically can be done about them?

Mr. SPRAGUE. We feel that the individual-yield program is one tool that will be attractive to good farmers. There may well be some other methods, some other means that we can use to improve the attractiveness of this program to the good farmers of this Nation. We have not yet specifically identified such programs or policies.

Mr. NAYLOR. Mr. Chairman, the educational process is also important. I think there is a perception, certainly out in the area where our family farm is located, that crop insurance is typically bought by producers whose results are not that good, and that the good producer is paying for the poor producer. There has been some of that perception in the financial community. It is not surprising to me, having come from the banking industry, that there are bankers who have recommended against crop insurance because of this perception.

Clearly, if you do not have an attractive product, one that represents fairly coverage for the individual producer—and that is why we put a great deal of emphasis on the individual-yield policy as one major tool--at rates that fairly and accurately reflect the quality of an individual producer's land, you will not have the credibility and the type of participation which we need.

The key will be, frankly, not a fancy advertising program, but a sound, well-grounded, educational program—with the financial community, with the farming and commodity groups, and with farm organizations and their members. The program will stress how to properly use the crop insurance program, and to present a product that is attractive. I think we can do that. It won't happen over night, but we have learned from our errors; we are on the right road to correcting those problems.

Senator COCHRAN. Will a greater degree of involvement of the ASCS structure be an important element in expansion? That has been advanced by some as a key, by using your existing structure there that farmers are comfortable with and respect. To what extent has that been considered as a means for increasing the level of participation?

Mr. SPRAGUE. I think we have made the determination to seek the maximum involvement of the private sector in the delivery, sales and services of this type of insurance. Over the long run, it is my belief that their involvement can lead to a product that is delivered and serviced in a cheaper manner than if we did it with the use of Government employees.

We are committed, I think, at this point to give private industry a fair shot at all this business that they can assume. Now, they must meet that challenge, if we are to obtain the objectives of the 1980 act. Failure on their part to participate would create a situation different than what I see today.

Senator COCHRAN. Well, you know the act says that, while established, private insurance companies should be used to assist in the marketing and delivery and servicing of the product, ASCS should also be used to the maximum extent possible in connection with data, resources and in serving as a local contact point for farmers. I wonder whether that part of the act is being ignored; and, if so, is that one of the reasons why we don't have a higher level of participation?

Mr. SPRAGUE. Let me talk about our involvement with ASCS during the current fiscal year. We have a memorandum of understanding with ASCS under which they will furnish us with a wide variety of services nationwide.

We have contracted for the current fiscal year with them to reimburse them $10,698,000 for services that they are providing to Federal crop insurance. Now, this is far beyond selling and services in areas where we do not have other sales forces. Much of that reimbursement relates to exchange of information, relates to their collecting and validating yield data for us, assisting with compliance, with providing services to our district directors, with providing program data, providing acreage determinations for companies with which we have reinsurance agreements. They are assisting in many, many ways in many counties across this country.

Mr. NAYLOR. Mr. Chairman, while we are making extensive reviews of data resources of that variety from ASCS, we are basically dealing with an insurance program. The information on how to deliver insurance is more readily found in the private sector; they have wide experience in providing general insurance services to the farming community based on many years of actual service. The act makes clear that from the standpoint of deliveries and of loss adjustment, the insurance industry is much more professionally prepared, trained, and able to deliver at lower cost those services than the ASCS.

There is technical information in support of the information function that the agency can serve and is serving. But the primary emphasis is that the private sector does have the capacity to do this job better, as far as delivery and loss adjustments are concerned, than the Government does, and we would want it to do so.

Senator COCHRAN. When you mention the insurance industry and its experience in hail and fire insurance, we know the Federal subsidy for the premium the producer pays is reduced when hail and fire are excluded from the all-risk policy. Have many farmers decided to exclude hail and fire from their policies because of this reduction in subsidies that occurs and, if so, has this had an adverse impact on the private-sector insurance companies that do provide hail and fire insurance?

Mr. SPRAGUE. Actually, very few producers have opted out of the hail and fire coverage offered by the Federal Crop Insurance Corporation. I do not have a specific figure relating to last year's experience, but it was a very small number.

Personally, I feel that the inclusion of hail and fire insurance in the package of multiperils covered by our contracts is essential. I feel that the taking out of that kind of coverage on a mandatory basis would result in a situation where some farmers would not replace it in a timely manner with private insurance. I feel that it would reduce the attractiveness of the Federal Crop Insurance Corporation contract to the extent that it would have an adverse effect upon our attempt to procure the wide participation that we need in order to share these risks involved with all potential losses.

Mr. NAYLOR. Mr. Chairman, I would like to echo Mr. Sprague. I know there have been recommendations that hail and fire coverage perhaps should be mandatorily removed. I think that would be counterproductive to the thrust of the legislation and to the efforts to make this program generally available. It would require farmers to buy two contracts of insurance instead of one to get full coverage. There would always be the risk, as Mr. Sprague pointed out, that some would not take out that coverage; and, in fact, many private insurance companies are now entertaining some additional overline coverage as part of their total package, in addition to our basic hail and fire coverage, which we think has some merit.

Clearly, in our judgment, the withdrawal of fire and hail coverage on a mandatory basis at this time from the crop insurance program could set it back in a very devastating way, before it has had the opportunity to demonstrate its effectiveness and ability. We would most strongly urge that consideration not be given to that type of change, certainly at this time. And we don't believe it would be appropriate in the future.

Senator **Cochran**. You all are aware of the fact that, when we had the act before the committee and we were trying to protect farmers who might not be able to obtain Federal crop insurance for one reason or another, or where the Federal crop insurance, because of the fact that this was a new program, might not be effective to compensate for actual losses sustained, we kept in the law a disaster assistance program that could be implemented to provide that type of relief under those circumstances.

Have there been any guidelines put together by the Corporation or at USDA to give some guidance to farmers about how they might qualify for disaster assistance under that provision of the law?

Mr. **Naylor**. Mr. Chairman, I am not specifically aware of that kind of guideline in ASCS. We will have to review that and supply it for the record.

Senator **Cochran**. I think that is important for the ommittee to have, because with the level of coverage we have now, and with the 1981 level of participation and those you anticipate in 1982, there is still going to be a lot of farmers out there without crop insurance coverage. I think we could just expect tremendous amounts of demand for disaster assistance from those who might suffer production losses where they are not covered by crop insurance. I think this has to be anticipated; and, if it hasn't been done with a view toward preparing some guidelines that would fit within the terms of that amendment that, as I recall, I offered to the bill, it certainly needs to be looked at in advance. So you can have some idea about what your response is going to be in case some claims are filed or some litigation may develop as a result of that.

Senator Huddleston is not able to be here in the committee at this time. He also has a number of questions he would like answered for the record, and we will submit them to you, and include his questions and your responses in the record at this point.

QUESTIONS SUBMITTED BY SENATOR HUDDLESTON AND ANSWERS THERETO

Question. Mr. Naylor, recently you announced a sweeping reorganization of the Federal Crop Insurance Corporation's two main offices—those in Washington, D.C., and in Kansas City. Would you explain the purpose of this reorganization; and why it was found necessary to make everyone in those offices subject to possible dismissal as part of this reorganization?

Answer. The reorganization of the Federal Crop Insurance Corporation as approved on April 15, 1982, improved upon a previously approved, but unimplemented reorganization. Both were instituted to better structure the Corporation to implement the changes in the operations of FCIC directed by the 1980 Act. The organization which we are presently implementing addresses the problem of a lack of central planning from which FCIC has suffered for a period of time. There will be a single Director in charge of Kansas City Operations and there are strong centralized management functions—e.g., Comptroller, Planning and Evaluation—established in the Washington, D.C. Headquarters Office.

Federal Regulations (5 CFR Part 351) require that when an employee is "released from his/her competitive level by separation, demotion, or furlough for more than 30 days or reassignment involving displacement" (of another employee) . . . due to "lack of work, shortage of funds, reorganization, reclassification due to change in duties", the procedures attendant to reduction-in-force must be used. Although FCIC does not intend to separate or furlough employees as a result of the reorganization, we will have a number of positions which will be downgraded as well as numerous positions whose duties are inaccurately described in light of the new organization.

Since this will require us to release individuals from their competitive levels, we are complying with Federal Regulations as we implement this reorganization. The Reduction-in-Force procedures also require that employees be given a minimum of 30 days notice prior to any action to release them from their competitive level (5 CFR 351.801). Since we knew we could not determine specifically all the individual actions at the start of the notice period, we issued all employees a "General Notice of Reduction-in-Force." This meets the regulatory requirements and still allowed us to continue our work on specifics of the reorganization as it affected individual employees. Employees were assured in the General Notice as well as at the briefings, held in both Kansas City and Washington, that FCIC did not expect to have to dismiss or separate any employee as a result of the reorganization. We will be issuing notices to individuals by mid-June indicating their specific assignments in the new organization.

We have continually stressed throughout this process that the only reason we are using reduction-in-force procedures is because it is mandated in regulation and not because we intend to dismiss anyone.

Question. Recently, the Federal Crop Insurance Corporation received new Executive Managers; and the Corporation was transferred to a different programmatic division of the Department of Agriculture. What policy and management changes have or will take place under this new leadership?

Answer. The decision to transfer FCIC from the Under Secretary for International Affairs and Commodity Programs to the Under Secretary for Small Community and Rural Development was an effort to combine agencies of like or similar programs.

In regard to the internal reorganization, which the Federal Crop Insurance Corporation (FCIC) has recently undergone, the most significant management change was the appointment of a single official over the Kansas City National Service Office. This was effective on May 24, 1982. As stated in the testimony of May 11, by the Manager of FCIC, an assessment was made to determine how effectively and efficiently the FCIC was meeting the objective of the 1980 Act. As a result of the assessment, several areas of FCIC are receiving attention to streamline the Federal Crop Insurance Corporation. Whatever policies are needed to accomplish the improvements will be implemented. Other policy decisions will be made as the need arises.

Question. One solution to the complaints of farmers about the Federal Crop Insurance Program would be to provide a farmer with yield coverage based on his individual circumstances. What percentage of Federal Crop Insurance policyholders have this option?

Answer. Ninety-one percent of the policyholders either have or had the option of having their coverage based on their individual yields. The ASCS low yield disaster commodities plus soybean insurance programs are optional based on the individual insured decision. The actuarial structures of commodities such as tobacco and peanuts are based on individual yields. Most of the processor type crops are based entirely on individual yields for coverage determination.

Question. As I understand it, hundreds of requests by counties for the establishment of crop insurance programs in those counties are now pending. Please tell us why this backlog is so great, and how soon you expect to dispose of this backlog?

Answer. For 1982, FCIC was expanded to all commodities which previously had protection under the disaster provisions of the Agriculture and Consumer Protection Act of 1973. This commitment took priority in 1982. The number of counties that FCIC expanded into for 1982 on disaster crops resulted in almost doubling the number of counties where protection is available. Our primary goal for 1983 is for further review, evaluation, and updating existing programs. We do, however, plan to expand our soybean, oats, peanut and tobacco programs for 1983.

Insurance is available in 3,000 counties, which is virtually all the agricultural counties. Many of the pending requests for insurance are on commodities such as tree crops, vegetables, nursery stock, etc. Extensive research is required in order to develop sound insurance programs for these types of crops. We will be addressing these commodities; however, it will be several years before insurance will be available for all of them.

Question. Please describe for the Subcommittee the appeals procedures that are available to a farmer who might dispute an FCIC Underwriting or claims decision.

Would the same procedures apply to farmers who apply for or purchase insurance policies written by private companies that are reinsured by the Federal Crop Insurance Corporation?

Answer. The following is a current procedure for handling a dispute with a policyholder on a claims decision.

The primary decision is made by the Field Office Director; the next appeal would come to Director of Operations, Attention, Claims Division Director; then to the Manager of FCIC. Final decision is rendered by our Board of Directors in major cases.

For private companies, the following procedure contained in the contract for disputed claims may be followed:

"If you and we fail to agree on the production to be counted toward guarantee because of loss, the following procedure shall be used:

(a) Either one shall demand in writing that the unharvested and harvested production be set by appraisal.

(b) Each shall select a competent appraiser and notify the other of the appraiser;s identity within 10 days after receipt of the written demand.

(c) The two appraisers shall then select a competent, impartial, umpire. If the two appraisers are unable to agree upon an umpire within 10 days, you or we can ask a judge of a court of record in the state in which the insured crop is grown to select an umpire.

(d) The appraisers shall then set the production to be counted toward guarantee. If the appraisers submit a written report of an agreement to us, the amount agreed upon shall be the production to be counted toward guarantee.

(e) If the appraisers fail to agree within a reasonable time, they shall submit their difference to the umpire. Written agreement signed by any of two of these three shall set production to be counted toward guarantee.

Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and compensation of the umpire shall be paid equally by you and us.

We shall not be held to have waived any of our rights to any act relating to appraisal."

Once a farmer has a dispute with an underwriting decision, the farmer would sign a request for reevaluation with his agent and it would be forwarded, thru the appropriate supervisory levels and ultimately to the applicable Field Actuarial Office for evaluation. Normally an understanding is worked out at this level. If not, it would be referred to the Director of the Actuarial Division in the Kansas City office and then, if not resolved, to the Director of Operations in Kansas City. The same procedure applies to the private reinsurance companies who may be writing the business since the underwriting and actuarially functions are controlled by FCIC.

Question. There has been strong objection to FCIC decisions to push forward the date when farmers must pay their premiums; and push back the date when agents receive their commissions.

What have you done to respond to these concerns?

Answer. The FCIC Board of Directors voted to amend regulations to provide that interest will accrue at the rate of one and a half percent (1½ percent) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the date of the first premium billing. This has the effect of maintaining the present system of allowing the policyholder to have the benefit of insurance throughout the growing season, while deferring premium payment until harvest.

All policyholders have been advised by conversion letter of the proposed interest rate and the date for the first premium billing applying to their crop. The provision allows for a 30-day grace period to pay the premium without interest.

All policies will state that: "Interest will accrue at the rate of one and a half percent (1½ percent) simple interest per calendar month, or any part therefore, on any unpaid premium balance starting on the first day of the month following the first premium biling." A letter to the policyholders will announce billing dates as follows:

BARLEY, OATS, WHEAT

The dates of the first premium are October 1 for counties with a final acreage reporting date after March 31, and July 1 for all others.

FORAGE SEEDING

The dates of the first premium billing is July 1 for New York State and October 1 for all others.

SUGAR BEETS

The dates of the first premium billing is July 1 for California and Arizona, and October 1 for all others.

RYE

The date of the first premium billing is July 1.

FLORIDA CITRUS

The date of the first premium billing is March 1.

RAISINS

The date of the first premium billing is May 1.

SUGARCANE

The date of the first premium billing is August 1.

FORAGE PRODUCTION

The date of the first premium billing is September 1.

COTTON

The date of the first premium billing is November 1 in southern tier.

ALL OTHER CROPS

The date of the first premium billing is October 1.

In regard to the policy change regarding the advance payment of commissions to agents, the Corporation will no longer be providing partial or advance payments against commissions prior to collection of premiums. Commissions to agents will be paid only after the premium has been collected and the commission has been fully earned. This new method becomes effective with the 1983 crop year. It is expected that the new system will accelerate submission of applications and acreage reports by agents. The change is also expected to motivate agents to assist in collection of premiums.

An important part of the service to the farmer, and the insurance agent's client is that the premium be collected to have a ready supply of cash available for paying losses which may occur. It has always been a standing policy of the Corporation that the premium is due and payable when insurance attaches. But, as in the past, FCIC will continue to provide free convenience credit until harvest.

Agents were informed by mail of the new financial management plan, and provided with a detailed schedule for advance payments for the 1982 crop year and the new plan for the 1983 crop year.

The Corporation has on numerous occasions explained to agents that the improved financial management plan is designed to accelerate premium collection, improve cash flow, and reduce the need for Treasury borrowing.

Question. What is your view of the proposal to prohibit the Federal Crop Insurance Corporation from offering coverage on the risks of hail and fire coverage?

Answer. Approximately 99 percent of the FCIC policyholders chose to insure the hail and fire protection in their All-Risk FCIC policy. It is our judgment that a significant portion of these policyholders purchased additional hail and fire insurance protection from private carriers. Therefore, we see little to be gained by removing hail and fire coverage from the policy.

Question. During your testimony you stated plans to require Master Marketers to be responsible for premium collection, the same as reinsurance companies.

Do you plan to provide them the same compensation as the reinsurance companies because of the added risk?

Answer. The Corporation does not intend to provide Master Marketers with the same compensation as the reinsurance companies for collecting premiums.

We felt that changes were needed to strengthen our financial practices and to provide for the best long term interests of the Government, farmers, and taxpayers.

Premium income is used to pay indemnities when they occur. Our budgetary allocations are used for program operations and not for paying losses.

Master Marketers, as well as Reinsured Companies, must sign contractural agreements with the Corporation before they can be authorized to sell Federal Crop Insurance.

Reinsured companies, to a limited extent, share in both the profits and the losses. Master Marketers are compensated on a commission basis for the sales and servicing of Federal Crop Insurance and do not share in profits and losses.

It is hoped that this new requirement for Master Marketers will encourage them to accelerate premium as a part of providing complete and professional service to farmers.

Senator COCHRAN. Thank you very much for being with the committee this morning.

Mr. NAYLOR. Thank you, Mr. Chairman. We appreciate the opportunity to appear before you. We will be pleased to provide responses to all the questions and work closely with you and your staff and Members.

Senator COCHRAN. Thank you, Mr. Secretary. Thank you, Mr. Sprague.

Our next panel of witnesses includes producers John Barr III, chairman of the Producer Steering Committee of the National Cotton Council; Gary Harris, chairman of the Crop Insurance Committee, and Wayne Nelson, president, National Association of Wheat Growers; Morris Dickel, legal counsel of the Red River Valley Sugar Beet Growers Association; and Edward Bowman, president of the National Association of Farmer-Elected Committeemen. If all of you could come around and take a seat at the table, we would appreciate it very much. We have copies of statements that have been prepared which we thank you for. We will include those statements in full in the record, and ask you to make any summary comments or highlights; give us the benefit of the highlights of your statement, and then we will be able to discuss some of the issues that you raise during the question and answer session. We appreciate your being here. I would like to ask John Barr to start off the presentation.

STATEMENT OF JOHN BARR III, CHAIRMAN, PRODUCER STEERING COMMITTEE, NATIONAL COTTON COUNCIL

Mr. BARR. Thank you, Mr. chairman. I am John Barr. I will comply with your wishes in terms of summary.[1] I am chairman of the Producer Steering Committee of the National Cotton Council. I am a cotton farmer from Louisiana. Part of our testimony today is based upon recommendations of the crop insurance committee, a subcommittee of that steering committee.

In our meeting in Dallas in January, we adopted a resolution that primarily dealt with the fair and equitable yield structure on crop insurance. It is in the written statement and I will not go into it in detail. The National Cotton Council has long supported a crop insurance program based on individual yields, and it is our feeling that, as currently offered, the insurance program does not fulfill this objective.

The program for the 1981 crop only covered about 11 percent of the cotton in the country. 1981 was one of the best yield years in recent history, yet almost 40 percent of insured farmers claimed losses. The loss ratio was 1.12 for cotton, and my comments deal specifically with that.

I think that loss ratio speaks very well to the fact that there is adverse selection for either poor farmers or high-risk farmers in the program as it is currently administered.

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[1] See p. 112 for the prepared statement of Mr. Barr.

I will readily admit that it has been a bit difficult preparing this testimony, because we must address the way the program has been administered up through 1981; and, as you well know, we are now looking at different personnel in charge of the program and new recommendations from them. Obviously Mr. Sprague and Mr. Naylor are trying to improve the program.

I think the legislation and the statutory requirements are in place to, certainly, improve the program, and my comments will address several of those specific changes which have already been implemented and which have been referred to by Mr. Naylor and Mr. Sprague in their testimony.

The current program was designed to remove the Government from risk exposure under the old disaster program and move into an insurance premium program. One of our complaints is that we feel like the risk to the Treasury is still there under this program, and that the subsidy that was intended for growers has largely been passed through to the insurance agent in terms of a commission, which now runs as high as 20 percent. We believe this issue needs to be addressed and that the program could be improved substantially in this area.

If the FCIC program is to survive in any form, it has to be made budgetarily sound. In order to do so, there must be some mechanism to respond to the needs of the grower. That very obviously is not in the program now. We feel the law should require the insurance to be based on the individual farm yield.

To clarify that, on the ASCS Form 156, there are three different yields: The payment yield, the adjusted yield, and an actual yield. There, again, I speak only for cotton, because I am familiar with those forms.

If, indeed, you change to the individual farm's actual yield, I can see no reason why that cannot be made actuarially sound in administering the insurance program. That in itself would eliminate some of the adverse selection.

We believe the maximum yield protection should be increased from the current 75 percent level to 90 percent. We recommend that the premium be decreased or increased more rapidly based on the farm's loss ratio. I would suggest that, in bringing new farms into the program, the yield over the past 5-year period should be considered. This program must be made budgetarily and actuarilly sound. It cannot be made so as long as farmers with consistently high yields are penalized with premiums as if they were farming in high risk, high loss regions. I think this is actuarially unsound.

We think the program can and must be simplified. For example, I, as a cotton farmer, now have nine options in terms of prices and yields. I do not think it needs to be that many.

We believe it necessary to reduce the time periods under which losses may occur.

We suggest that the insurance coverage be extended until harvesting is normally completed. We agree that the appeals procedure should be carried out through ASCS offices. I think you already had discussion on that. We frankly favor the use of ASCS, in selling the program. The reason is the credibility they have in the country. We feel the programs would not necessarily have to be sold so hard if somebody who has credibility is handling it.

Another problem with the program is farmers in many cases are farming the insurance program. We feel it should be necessary for a local ASCS committee to determine if the crop was farmed in a workmanlike manner before any claims are made. We feel local control of this would put people out of the business of farming the crop insurance program.

We feel that producers should be eligible for coverage if they choose to replant a crop after the normal time. However, this should be at a yield level that is somewhat lower, as would be expected from a late-planted crop.

In addition, we believe there should be some adjustments made if a good producer takes over a farm that has had difficulty. I think this is a current necessity, because there are many bankruptcies, and there are great problems in the farm economy of the country. Perhaps this year, and more certainly next, there will be farmers who have been doing good jobs in the past who are going to acquire these farms. If that man is going to benefit from the FCIC program, he should be able to bring some of his previous good yields with him.

We realize the current program work is complicated. Few farmers are experts in the field of insurance, and I am certainly one of those who is not expert. There is need for flexibility in the law. The history of this program today has made many of our producers somewhat skeptical, and that is an understatement. We appreciate the opportunity of being able to make these comments this morning, and we commend you on your foresight in holding these hearings. We commend the administration on the changes they are currently making in trying to make the program work. We feel what we have suggested is within the realm of statutory authority as it currently exists. However, if in the wisdom of this committee it becomes necessary to rewrite the law, there are two other areas that should be addressed: One is the total ASCS administration of the crop insurance program; two, rather than insuring yields, you should consider insuring the cost of production or the cost of input that the farmers have. That would have to be addressed separately; we understand that.

Again, thank you.

Senator COCHRAN. Thank you, Mr. Barr. We appreciate your comments and your presentation to the committee. I think we will go on through and have statements of each of the members of the panel before we get into the question aspects of it, so Gary Harris, and/or Wayne Nelson, however you have that divided up, from the National Association of Wheat Growers, you may proceed.

STATEMENT OF GARY HARRIS, CHAIRMAN, CROP INSURANCE COMMITTEE, NATIONAL ASSOCIATION OF WHEAT GROWERS

Mr. HARRIS. Thank you, Mr. Chairman. The National Association of Wheat Growers thanks you for the opportunity to offer our views and recommendations on the operation of the Federal crop insurance program. I am Gary Harris, a wheat farmer, from White River, S. Dak., and chairman of the Crop Insurance Committee.

As was mentioned earlier, accompanying me is Wayne Nelson, president of the NAWG.

Mr. Chairman, despite all the technological advances that have taken place in agriculture, farmers still need equitable and affordable protection against partial or total crop failures. The Federal Crop Insurance Corporation was established in 1938 to provide disaster protection to wheat farmers, and the agency was totally overhauled in 1980 to make it the sole Federal program for crop protection.

The NAWG was active in the development of the 1980 Crop Insurance Act, and we were very disappointed that a transitional period of only about 1 year was provided to launch an expanded, untested program to take the place of proven disaster protection. In fact, we believe that the ambition to rapidly remove farmers from the ASCS disaster program has largely created the intolerable situation that confronts us today, and we have evidence of premiums in the neighborhood of 40 percent of returnable collectable benefits.

The principal defect in the FCIC program is the high premium cost relative to unrealistically low insurable yields. Many wheat farmers have reported premium costs, relative to maximum per acre coverage in dollars, in excess of 40 percent. In Lincoln County, Colo., for example, wheat insured for $4.50 per bushel, at a 65-percent loss rate, or 8.7 bushels per acre, according to FCIC yield data, would require a premium of $15.70 per acre. The value of the insured loss would not exceed $39.15 per acre, however ($4.50×8.7 bushels) so that the farmer would be paying a 40-percent premium. High premium costs like that cited in this example lead to low FCIC participation.

In many areas, Federal crop insurance is a good buy only for high-risk farmers. A southeastern Colorado farmer, whose insurance premium, relative to coverage, is 21 percent, figures that he would have to completely lose one out of every three crops to break even, or cover his costs, on crop insurance. He decided that the insurance was a bad investment, since he is a low-risk farmer with proven yields well above ASCS county averages. This example is not unique.

In my own case, the premium rate on summer fallow wheat is 23 percent of maximum per acre coverage, in dollars, and the rate on continuous crop is 28 percent. Compared to low-risk farmers, obviously I am a high-risk individual at a 28-percent insurance premium.

Signup dates for crop insurance have also hindred participation this year, because they have come into conflict with compliance dates for the USDA's acreage reduction programs. Although farmers have more than 2 months in late-maturing areas after the reduced acreage signup deadline to decide whether they will actually destroy planted wheat to comply with the program, if they wish to take out crop insurance they must indicate their compliance intentions by April 16th. This situation has created problems in our area because we either pay the premium on acres that we have torn up if we ultimately comply with the reduced acreage program, or if we take out crop insurance and don't tear up the wheat to comply with the program, figured yields are much too high making it impossible to collect unless we have a total crop disaster.

The crop insurance program should be harmonized with ASCS programs.

A related problem is occurring with sign-out deadlines for 1983 FCIC participation. Farmers already covered under FCIC in my county for 1982 had until April 30 to decide on coverage for 1983, in spite of the fact that premiums had not yet been formulated by that date, and crop conditions were very uncertain.

We were signing up for a program, when we didn't even know what the cost of it would be.

Also, in 1983, FCIC proposes that premiums come through 30 days after filing of the average report instead of harvesttime. The deferred premium payments until after harvest with no interest charge have historically allowed farmers some relief from the need to borrow to pay for production inputs. With farm income at depression era levels, surely this practice should continue, with at least a 90-day grace period following harvest before interest rates are charged. In the event that FCIC proceeds with its proposal to charge interest on unpaid premiums, however, the interest rate should be set at the Commodity Credit Corporation rate.

The NAWG has received reports from west Texas, which has suffered from a severe drought this season, that FCIC loss appraisal methods have resulted in grossly overestimated yields for farmers who have filed for payment. We have documented on videotape an example that shows wheat fields that farmers estimated would yield 2 to 3 bushels, but the FCIC appraisers said the field would yield 14 bushels, although later this was lowered to 8 bushels.

In my own case, I had some very good wheat which was severely damaged by a freeze. The yield estimated by FCIC appraisers was 9.5 bushels, but my actual harvest was 7.5 bushels. In comparison, I made 60 bushels on land that wasn't as good as where the damaged wheat was growing. So it was definitely an optimum growing year, and the loss was a serious one for me.

I think you could have cut that in half and we would have what we call an average year.

This is happening in many parts of the country. Another program problem relating to loss claims should be corrected. When a substitute crop is planted following a crop loss, the producer should not be penalized on the loss claim on the first crop. It should make no difference that the farmer is perhaps able to harvest and plant another crop on his land. Reducing a farmer's claim because of a substitute crop is like having your automobile insurance cut the damage claim on the value of your totally wrecked car because of the value of the family's second car.

We suggest that ASCS be able to service and deliver crop insurance, and that county ACSC committees be allowed as a resource in solving problems that develop between producers and the FCIC in the administration of insurance coverage and claims.

Also, we recommend that FCIC continue to offer comprehensive multiperil coverage including hail and fire insurance.

Mr. Chairman, a workable transition from disaster programs to crop insurance for all commodities has not been provided. FCIC is pushing its luck too far if it thinks that good weather conditions will prevail across the country until it completes the job of rebuilding its operations. All that remains to assure assistance to farmers in the event of disaster is the emergency disaster loan program, and we commend the Senate Agriculture Committee for reauthorizing this program without any limitation on potential outlay.

We have asked the House and Senate Appropriations Committees, as well, to fund this program without limitation. Maintaining the emergency disaster loan program without a ceiling will assure qualifying producers loans at reduced interest rates to offset actual losses, and this is the only present means available to partially compensate for the deficiencies of the Federal crop insurance program.

In this connection, we do not agree with the Agriculture Committee's action in providing the Agriculture Secretary authority to link FmHA loan eligibility to FCIC participation. Borrowers should not be compelled to subscribe to an insurance program offering uneconomical coverage, and we hope that this matter will be taken up when the full Senate considers S. 2314.

Mr. Chairman, the National Association of Wheat Growers wants to see the Government's crop insurance program work. We need its coverage, and we want to help improve the program to the point that it will be economically attractive to farmers. Only then will it become viable as the farmer's means of protecting against crop disasters.

We feel this program is unworkable out in the country where we have grease under our fingernails. It looks good on paper. We spent several hours involved in this, and I don't see that educating the insurance salespeople in a period of 20 hours will do us much good.

Thank you again for this chance to participate in the hearings, Mr. Chairman.

Senator COCHRAN. Thank you, Mr. Harris.

Mr. Dickel, Senator Boschwitz said to tell you hello. He wrote me this note when I was over voting a minute ago. He said,

> Morrie Dickel is an old friend whose many years of law practice in Crookston, Minn., has made him a recognized expert in the problems faced by farmers. Northwestern Minnesota is blessed, and is among the most fertile areas of the world. Because of its fertility and the northern latitudes in which it lies, it is an area of wide variety of crops, including not only wheat, corn, and some soybeans, but is a major area for sunflowers, sugar beets, and potatoes. Morrie Dickel brings long and wide experience and a sharp intellect to these hearings.

It sounds pretty impressive. We are glad to have you here.

Mr. DICKEL. That sounds pretty impressive to me, too, Senator.

Senator COCHRAN. The Senator wanted me to welcome you in his absence, and is sorry he can't be here to welcome you to the committee.

Mr. DICKEL. Thank you, Mr. Chairman.

I have prepared testimony, but I will not take the time to read it. I would like to highlight it.[1]

Senator COCHRAN. Thank you very much.

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[1] See p. 115 for the prepared statement of Mr. Dickel.

STATEMENT OF MORRIS DICKEL, LEGAL COUNSEL, RED RIVER VALLEY SUGAR BEET GROWERS ASSOCIATION

Mr. DICKEL. I am Morris Dickel. I am an attorney from Crookston, Minn., and I work as legal counsel for the Red River Valley Sugar Beet Growers Association.

Mr. Warner has filed written testimony, but because of problems with rain and other weather conditions, he is not able to be here today. I understand his written testimony has been made part of the record.[1]

Senator COCHRAN. Yes.

Mr. DICKEL. Thank you, Mr. Chairman.

The 1981 crop year was a disaster for the sugar beet growers in our area. To date, very, very few have been paid by Federal crop insurance on the claims arising from that, and I know of no case where the grower thought he was adequately compensated for his loss.

We believe congressional intent was that farmers be provided with adequate farm insurance to protect them from the natural effects of natural disaster. We also believe the crop insurance program as now administered does not carry out that congressional mandate.

We believe that it is proper at this time for Congress to investigate this matter, see to it that its intent is being carried out, and we appreciate very much the opportunity to appear here today and to testify at this hearing.

Attached to my written testimony is a copy of the Federal crop insurance policy. I urge you, Mr. Chairman, to read the policy to see if you can understand it. I know that I can't.

As you read the policy, ask yourself the following questions: One, What does the policy insure against? Two, What do you get paid if you have a claim? Three, How is that claim calculated? Four, When and under what circumstances do you reach the various stages referred to in the policy? Five, How do you get to state three?

We had a very serious problem arise in Red River Valley. Farmers were told by various agents in many communities that they were buying a guarantee of so many dollars per ton times the number of tons insured, and they were led to believe that if they elected level 3 and got to level 3, they would receive their guaranteed tons per acre times their price election.

The Federal Crop Insurance Corporation personnel advised us, however, that the price selection is really meaningless so long as the farmer produced their guaranteed tons per acre, and at that point they won't receive any indemnity of any kind.

When attention was called to the problem arising from misrepresentations by Federal crop insurance agents, we were told by a representative of the Federal Crop Insurance Corporation, "If you are unhappy with what the policy says, sue your local agent."

I won't take your time with the reading of the entire policy, but in my written testimony I have called attention to some of the paragraphs that are almost unintelligible, and I respectfully urge you to refer to that written testimony.

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[1] See p. 124 for the prepared statement Mr. Warner.

The thrust of our position is that there were misrepresentations on the part of some agents selling Federal crop insurance. We don't claim that every agent misrepresented and misunderstood the policy, but a large number of them did.

We don't claim that each and every farmer misunderstood what they were buying, but a large number of them did.

We believe and do claim, however, that as I testify here today, no one from Federal Crop Insurance Corporation knows what the Corporation intends to pay for the 1981 disaster.

As I have prepared this testimony, the Federal Crop Insurance Corporation officials were still contemplating what their position was going to be. As I visited with them this morning in this room, they still had not made a decision. I don't fault them for the fact that they are giving it serious and detailed study, but I believe that a prompt decision is in order.

We believe that the policy should insure against unavoidable loss of production from adverse weather conditions and other disasters and that some sensible method of calculating claims should be stated in the policy, and that farmers ought to be insured for realistic production guarantees, one that will more accurately reflect current yields.

I am appearing here in the hopes that we cannot only redress the wrongs brought about by the fiasco in 1981, but also to possibly do something to bring about a rewriting of the policy itself. We are not appearing here in an attempt to kill the program of Federal crop insurance. We are appearing here today in order to be helpful in hopes that a bad policy can be rewritten so that it is in fact a good policy, one that everyone can understand.

In 1981, approximately 40 percent of our growers bought Federal crop insurance, and they insured about 112,000 acres. They paid premiums of approximately $1.9 million. Because of the method in which the 1981 disaster being handled by Federal crop insurance, practically no one is taking out crop insurance in 1982. This isn't good for the growers, nor is it good for the program. Something ought to be done.

We believe that agents who are going to sell Federal crop insurance should be better trained as to what the policy provides, how claims are calculated, and when and under what circumstances a farmer might expect to be paid for his loss.

Whenever a discussion takes place with Federal crop insurance people, they seem to be defending their position by indicating that while the coverage might be inadequate, the premium is low, so we shouldn't expect a great deal.

One of the most unjust features of the program is that as a policy is now written and interpreted by Federal crop insurance, it is in the best interests of the growers to be inefficient, to harvest as little as possible, to use minimal efforts.

Growers who put forth the most efforts, and work the hardest, are penalized the most. We should be rewarding the industrious farmers, not the inefficient ones. I sincerely hope this committee can do something to help.

We appreciate the opportunity to be here and appreciate your interest in this program.

Thank you.

Senator COCHRAN. Thank you, Mr. Dickel.

Mr. Edward Bowman, president of the National Association of Farmer-Elected Committeemen.

STATEMENT OF EDWARD BOWMAN, PRESIDENT, NATIONAL ASSOCIATION OF FARMER-ELECTED COMMITTEEMEN

Mr. BOWMAN. Thank you, Mr. Chairman. I will summarize my statement in the interests of time.

It is a pleasure to speak to your committee and to you, sir, and to address a subject which I think is most important to the American farmer, Federal crop insurance.

I speak in behalf of the National Association of Farmer-Elected Committeemen. We are locally elected people, elected by our peers, our neighbors, to administer farm programs in all 50 States.

We are elected without regard to any ethnic background or political affiliation, and we serve in the same manner.

The concept of Federal crop insurance is not new. We have had it for many years. It has long been available for some commodities. For other commodities, it has become a new item since the 1980 law was passed.

But no year goes by without a catastrophe in some area of our country. These take the form of flood, drought, insect infestation, and blight, to name but a few, and generally speaking, the individual farmer is powerless to avoid these catastrophes and the financial hazards they can cause.

Recent farm laws have included provisions for so-called disaster payments for producers of some commodities under certain specific provisions as determined by the Secretary of Agriculture under the law. The Crop Insurance Act of 1980, Public Law 96-365, expanded the feature of the crop insurance to additional commodities and to additional areas.

The Agriculture Food Act of 1981 intended that crop insurance protection be expanded at the same time as the so-called disaster payments and provisions were phased out. This intention of our Congress was commendable and the theory was sound. There has been, however, one hitch in that plan. The American farmer has not availed himself of the opportunity to secure the Federal all-risk, all-commodity insurance protection that the Congress has envisioned. Why?

1. Federal crop insurance has not provided the commodity protection sufficient to the farmers' needs in consideration of today's mounting operating costs.
2. The premium rates charged are inequitable to the projected risk on a sound actuarial basis.
3. The cost of administration must be minimized to keep the cost down for the American farmer and our Government.

To accomplish these three objectives, NAFEC would recommend the return of the perils of hail, fire, and lightning normally insured by the private crop insurance industry, to that industry. Historically, our Government has operated on the philosophy that "Government should only do for the people those things it cannot do for itself."

American farmers have purchased crop insurance from private companies in this country for many years. They have strong acceptance and dependence on this service. This practice should be allowed to continue without Government interference. Government should provide protection for the other perils, some of which I have heretofore enumerated.

To accomplish the other objectives, I would strongly urge that the administration of Federal crop insurance be handled by the agency known as the Agricultural Stabilization Conservation Service [ASCS]. The administrative costs of the program would be minimal with ASCS. ASCS already has the offices in each agricultural county. They have the staff, the equipment and the expertise to operate such a program with a minimum of additional cost. They could even sell and service the policy, including acreage certification and claim service.

Senator COCHRAN. Mr. Bowman, I hate to interrupt you, but I have to go over and cast a vote on the budget resolution. We will resume your testimony and the questioning of the panel in 10 minutes.

The subcommittee will be in recess for 10 minutes.

Mr. BOWMAN. All right, sir.

[Recess taken.]

Senator COCHRAN. The subcommittee will come to order.

Mr. Bowman, you may continue.

Mr. BOWMAN. Thank you, Mr. Chairman. I was enumerating the ways in which I felt that we could put the crop insurance program into a workable program because I do endorse the program, and think it is needed. I had mentioned that I thought we needed to——

Senator COCHRAN. We got all that.

Mr. BOWMAN. All right. Let me, then, just complete by saying that we need to get our committee system, and the crop insurance authority, together. One of the purposes of your hearings, Mr. Chairman, is to see whether there are any legislative changes needed by the Congress concerning this legislation, and I might say to you that it seems some things are loosely named in the bill, but perhaps need to be clarified.

One is to give the administration of the program to the Agricultural Stabilization Concervation Service. Although it is mentioned in the bill and has some authority in the bill, it is not specific, and it would seem to me, sir, that this needs to be further specified and brought out by further legislation.

Also, to pull out the perils that I mentioned of hail, fire, and lightning from the crop insurance, and to have that on an actuarial basis so that the farmer has the option of purchasing any, or all risks, or without those three perils.

I believe that summarizes my thoughts, and I would welcome any questions.

Senator COCHRAN. Thank you, Mr. Bowman.

It seems to me a matter of agreement that the ASCS should have a greater role in administering the crop insurance program. I notice that each of the witnesses in the panel has referred to the need for more involvement in the program by ASCS. I appreciate having that observation and the benefit of your thoughts about how that could improve the attractiveness and the level of participation in the program by farmers.

I noticed in Mr. Barr's comments particularly the suggestion that there needed to be an ASCS role expanded in loss determination, specifically in trying to assess the loss.

How could this be done unless we just simply changed the law to require that the adjusting of claims be made a responsibility of ASCS? Would that be workable, or should ASCS be more utilized as a forum for an appeal of the loss adjustment by a crop insurance adjusting agent?

Mr. **Barr**. As I understand the law as it is currently written, ASCS is specifically prohibited from actually administering the program and selling insurance except in those counties where there are not other facilities.

Is that not true? Would there be a problem in the statutory requirement of the law with ASCS serving in an appeals capacity where there is an appeal on loss?

The question I had was whether or not ASCS could do that. I certainly recommend it be done. There is really no procedure now in which a determination is made on whether a crop was farmed in a workmanlike manner. The only way this can be determined now is for insurance adjusters to go to the fields and find things that raise their suspicion.

ASCS has made these type judgments in the disaster programs and other programs for years. I personally see no problem, unless you see one within the statute, of absolutely requiring a positive determination by ASCS local committees, of sound farming practices before a loss is paid.

Senator **Cochran**. Do you think that would keep down instances of fraudulent claims?

Mr. **Barr**. One of the other speakers addressed the problem with the fact that the program as currently administered actually encourages less fertilizer, less seed, less inputs into the crop. The less you make, the more you make.

Senator **Cochran**. What some have referred to as "farming the program"?

Mr. **Barr**. Correct, and even though we certainly know this is not true in every case, there are cases in which it is being done. The loss ratio itself speaks to the fact that you do have low-input farmers or at least the high-risk farmers, in the program.

Senator **Cochran**. Mr. Harris, I am assuming you were here when the administration officials were testifying about specific changes which have been made in the administration of this program. Is it your judgment that these are going to have a positive effect? Will they have an effect on attracting more people into the Federal crop insurance program?

What is your reaction to those changes that they suggested they were making?

Mr. **Harris**. Mr. Chairman, my feelings are that many of the proposed administration changes in the program will discourage participation and will lower participation levels beyond those we now have. The fact that there have been six Managers in 5 years at

FCIC is perhaps not so much a reflection of the administration's willingness to improve the program or commitment to it, so much as an indication that the program itself is unworkable.

Senator COCHRAN. You don't think there is any way to change the administration to increase levels of participation except lowering the rates of premiums, increasing the prospective benefits and payments for claims?

Mr. HARRIS. I feel a lot of the changes they are trying to institute are merely cosmetic. I think there are deep-seated problems in the program, and some from previous times. Unfortunately, once a farmer is discouraged, the complexity of the program is such that it is hard to reeducate him. I know of a case in South Dakota where there was a misunderstanding with the agent, not necessarily the agent's fault, but FCIC will lose an $83,000 premium next year because of it.

Senator COCHRAN. What do you think the recourse of farmers will be if they don't take out this insurance and they incur disasters? What is going to happen to them?

Mr. BARR. Well, I'm not totally convinced that this FCIC will alleviate a disaster when it occurs. It was mentioned earlier by one of the Congressmen from Texas that bankers were actually encouraging people not to participate in FCIC.

Now, in our particular area, bankers began by encouraging people to participate, because they had read the ad and it sounded good, and they felt this was a way of attaining at least some collateral for their loan. When we asked them to look into the program and see what they felt about it, they began recommending that people do not take the program.

Senator COCHRAN. Well, what is going to happen to the farmer who does not take out crop insurance and has a disaster? What are you going to do if that happens to you and you don't have any coverage?

Mr. HARRIS. Probably not too much differently than I would have if I had coverage. I don't feel the coverage is sufficient to compensate for a major disaster, and our survival would be in question, even if we were covered under FCIC.

Senator COCHRAN. You mentioned in your testimony the fact that the Agriculture Committee has kept in place the emergency disaster loan program administered by the Farmers Home Administration. Do you see a lot of claims being submitted, or applications filed for loans under that program by farmers who do not obtain Federal crop insurance?

Mr. BARR. Mr. Chairman, if I might defer that question to Wayne Nelson, I am sure that he will have a more intelligent answer than I have at this time.

Mr. NELSON. That is a pretty big order to fill, but in our county in South Dakota, we were adversely affected in 1981 by the freeze, our Winter wheat crop, and right now there are about 260-some applications for loans under the program that you just suggested.

Senator COCHRAN. How many applications?

Mr. NELSON. Over 200. So it is a countywide disaster, and unfortunately the crop insurance program's credibility in our area has gone downhill since 1980. In our own farm, we have had crop insurance since 1952, and the percentage of the participation on the wheat in my home county was over 40 percent at one time, and now it is at about 23 percent.

This is what worries us, that even farmers who had had a good sense of credibility with the Federal crop insurance program are now losing that sense of credibility and it is going backward, and it has to—something has to be done in order to keep this from decreasing, and also increasing in areas that have not had the insurance before.

I think you mentioned earlier on some of the administration's proposals. I think that there are some things there that could do some good, but frankly for the same reasons we are talking about now, some sort of disaster, if it comes before the 2 years that they feel they will need to get the program in shape, that is what scares us.

With only 30 percent last year overall on wheat, and the drastically reduced prospects on wheat this year, if we have any kind of major disaster, such as the freeze we had in 1981, then we are going to have a lot of farmers that don't have anywhere to go except something like the emergency loan program, and that is not—it definitely helps, but it is not going to be the answer in all cases.

Senator COCHRAN. There was some concern about how the crop insurance program establishes yields, the level of yield coverage for certain crops. We mentioned cotton and wheat specifically.

Is there a similar problem in the sugar beet area, or did you have onfarm evaluation of yield performance so that coverage is not a problem in that commodity? Mr. Dickel?

Mr. DICKEL. Well, ascertaining the yield is simple, because the sugar beets are all delivered to a processor, so you have an absolute record of every grower's yield for every year.

So determining the yield is not a problem. The problem is that the level of coverage is inadequate, that the actual yields are not taken into consideration, and I believe that one witness testified earlier, you are averaging in the disaster years with the good years so that the yield that you are insured for is totally inadequate, because as I view the Federal crop insurance, it should be a safety net that was referred to by one of the Congressmen from Texas, and it simply doesn't do that if the level of protection is so low that even with a full, total loss, you can't recover back your cost of production.

Senator COCHRAN. You probably have heard Mr. Sprague, the new Manager of the Federal crop insurance program, talking about the studies that were being done with outside actuarial consulting firms to try to get this on as sound a basis economically, so that it would be fair.

Would your reaction cause you to think, "Well, let's wait and see?" I think Senator Bentsen also mentioned the true test of the crop insurance program is going to be judged by the results.

This act was passed in 1980. Are we rushing the judgment too quickly, or do you think Congress should react now by making drastic changes, or should we give the new management team an opportunity to try to sort it out and make corrections and changes so that it can be a workable program?

Mr. **Dickel**. I think one of the more intelligent comments I heard was by Senator Andrews' assistant, Marianne Bond, this morning, who indicated to me that maybe Congress had asked the Federal Crop Insurance to perform a task too quickly. Maybe a year was just too short a time to expect a sound program to be put in place.

I believe the concept is an excellent one. I believe that the premiums may be inadequate, and if they are, they ought to be raised, and I think the program ought to be designed to give farmers the protection they need and it must be actuarially sound. There is no question about it.

I don't know that Federal Crop Insurance is really serious about doing that, though. At least, I haven't seen any evidence of it. When I discuss the policy with them, 1982 has the same policy as 1981. They are not going to rewrite it. They know what is wrong with it.

Senator **Cochran**. Do you think the training program for agents is going to be an improvement in the program? You heard that suggestion, that there would be training programs for agents and agents wouldn't be permitted to sell until they were trained, moving more emphasis to the private sector, requiring agents to be licensed by the States in 1983. Are those changes positive steps, do you think?

Mr. Bowman, what is your reaction to that? I know you are for ASCS selling and servicing the policies and making the adjustments on the claims and establishing the yield.

Mr. **Bowman**. Yes.

Certainly training is always good. There is nothing wrong with training if it is objective and with a purpose. I am not sure of some of the training, that it has always been of that type, if you review the training that some have received.

In answer to the last question you asked of us, I hate to see us delay longer the review and the new direction of Federal crop, because we are going to lose a lot of farmers in the process.

We have statistics in the crop insurance business for some 75 years. It is not new, and it should be readily available, and the private sector can come with those and others can help, and I would suggest that we get on with it now. It can be convenient to put it on the shelf and leave it, but a lot of farmers are hurting in the meantime.

Senator **Cochran**. I appreciate that very much, and I appreciate all of your statements and your observations based on your experience and knowledge about the way the program is functioning.

I am convinced we have a serious problem on our hands, and that is one of the reasons why we were motivated to convene these hearings. I wanted to take a look at the problems and get a wide range of input into the record so that we can try to work in a cooperative way with the Administration and with affected farmers, and organizations throughout the country, and get something done about it before it is too late.

If changes have to be made, as some of you have suggested, I think your being here has been very helpful in the process, and I thank you very much.

I apologize for the interruptions we have had, and the delay. Thank you all for being here.

Our next witnesses include Roland Wentzel, Economic Analysis Division, Farm Credit Administration, and James R. Eatherly, president, First National Bank of Kampawa, Okla., testifying on behalf of the American Bankers Association.

I might say at this point, while we are waiting for the witnesses to take their places, that Senator Hawkins asks that her statement be included in the record.[1] She has a very keen interest in this subject matter as a member of our committee.

We will place, without objection, a copy of her statement in the hearing record.

Mr. Wentzel, we have a copy of your statement, and we would ask for you to make any summary comments or any observations based on the statement that you would care to at this time.

STATEMENT OF ROLAND WENTZEL, ECONOMIC ANALYSIS DIVISION, FARM CREDIT ADMINISTRATION

Mr. **WENTZEL.** Thank you, Mr. Chairman. My name is Roland Wentzel, and I presently am an economist for the Farm Credit Administration.

For the last 3½ years, I was involved with the crop insurance program beginning as a special assistant to the Secretary of Agriculture during the time the program was being developed, and debated.

I then became the Acting Deputy Manager of the Federal Crop Insurance Corporation and ended my career there as Acting Manager of the Federal Crop Insurance Corporation.

At the time the legislation was being developed, there was a fairly widespread acknowledgement that the financial community had a very big stake in the development of this program.

It was also recognized that lenders could play an important role as well in helping to educate farmers as to the financial and economic benefits of crop insurance.

I think this has been borne out by the experience of the farm credit system. Several hundred production credit associations, or their local branch offices, sell crop insurance. The motivation for these PCA's to sell crop insurance is twofold: First, by doing so, they are essentially providing a service to their borrowing members. Second, perhaps even more important, is the fact that the lender, the farm credit system, just as any other commercial lender, has a genuine economic interest in the financial and economic condition of farmers, that their financial condition is sufficient to meet debt obligations.

That is a very practical reason for any lender, and certainly the farm credit system, to take a very great interest in seeing that the performance of the crop insurance program is one that does in fact benefit farmers.

By selling crop insurance, associations contribute to the achievement of public policy objectives. That is, by selling through several hundred PCA's, the availability of crop insurance has been widened more so than had the PCA's not become involved in selling crop insurance.

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[1] See p. 88 for the prepared statement of Senator Hawkins.

Production credit associations do not require each and every borrower member to purchase crop insurance. In my view, and to the best of my knowledge, it represents that of the farm credit system as well to do so would to be to provide a great disservice to the borrowing members.

In many cases, as we have seen illustrated through the testimony provided today, crop insurance doesn't provide economic benefit to farmers.

Whether crop insurance would represent a financial benefit to farmers depends on many things: On their cash flow, on their financial condition, and certainly on the coverage that is provided by that insurance.

Mr. Chairman, the purpose of your hearing is to focus on problems of the crop insurance program, and hopefully to solicit suggestions as to the improvements that could be made.

I would like to address those issues now, and I would like to do so relying and drawing upon my experience with the program.

In my view, the most critical changes that have to be made in the crop insurance program have to do with refining and modifying the actuarial procedures and methods that are being used. Crop insurance has been around for 40 years, and during that period of time the actuarial procedures and methods have remained essentially unchanged. It is absolutely inconceivable to me that there haven't been some changes in actuarial science that might have some application to crop insurance.

When I speak of actuarial procedures, I am talking essentially about establishment of insurance coverage and premium rates charged for that insurance. It is terribly important, because this essentially defines the product that is being sold to farmers.

What has resulted as a result of the actuarial procedures that have been in place for 40 years is a highly inflexible system. Many people have testified here this morning as to the fact that coverage rates are unrealistically low, and in many cases premium rates are unrealistically high. I think that has been a drawback, a weakness, and it has been long recognized in the crop insurance program.

The effect has been has been to provide a crop insurance program that has selective appeal. Those producers who tend to be the riskiest, those producers whose average yields are less than average, are those that find the crop insurance program for the most part attractive.

This excludes those producers who are better managers, who are more ideally situated through geography, and who are following better management practices, better farmers perhaps, those with better yields, from participation in the program. Any lender has a great interest in seeing that this program is of wide use, that you are not in effect excluding a large segment of the farm public.

What the individual yield coverage program will do is to provide the producer the opportunity to show that his yields are in fact higher than those that have been assigned to him. You have to do so through verifiable evidence. A wide source of evidence might be used: Scale tickets, sales receipts. Indicated yield coverage is clearly a step in the right direction.

In my view, however, this program is inadequate because a large number of producers don't have yield records. So while it is a step in the right direction, it is a cosmetic change. It is a step in the right direction, but there are many steps that would have to be taken in addition to that.

Speaking of the actuarial system, the actuarial structure and methods that are being used, it strikes me that you are attempting to apply a structure that is very simple to a highly complex system. Agricultural predicting is affected by a large number of variables, technical, physical, technological and economic. For instance, if commodity prices go up you have a stimulation for farmers to increase their production. There is going to be more land in production. Some of that land is going to be marginal land and yields are going to fall as a result. If commodity prices go down and land goes out of production, that land going out of production tends to be the marginal land, and the trend is for yields to increase.

Technology has the effect of changing yield as well. Agricultural production systems are highly complex and volatile. But the actuarial system simply looks at what history has been, and only with respect to yield. It is based on yield affected by weather. There are many other changes, technology has changed, cultural changes have taken place as well.

So by taking, as the actuarial procedures of FCIC do, an average yield for the last 5 years, for instance, you are essentially being blind to all those factors that are in fact affecting yield. A system that uses procedures that ignore the factors that affect yield, is one that is essentially shortsighted.

My point is that the actuarial practices that are being used must change and must change for the better, perhaps even radically.

Senator COCHRAN. You heard them talk about the fact that they were turning this over to an independent outside consulting group to try to improve the actuarial soundness of the system. Is that what you would have done?

Mr. WENTZEL. Had I had the opportunity to take that action, I would have done so. A consulting firm could be useful if the consultants are trained actuaries. Adoption of modern actuarial practices is essential to making the fundamental changes in the methods FCIC uses to establish insuring coverage and premium rates.

Senator COCHRAN. Well, assuming that this can be done and that an actuarially sound program can be developed through the use of outside expertise, do you have any observations about what else needs to be done in raising the level of participation? PCA's, while being able to offer crop insurance, are not permitted to require crop insurance. Is that correct?

Mr. WENTZEL. That is correct.

Senator COCHRAN. That violates the act, if they do that.

Mr. WENTZEL. The requirement to purchase crop insurance from PCA, is contrary to the act.

Senator COCHRAN. But they can require that you get crop insurance that you don't have to buy from them?

Mr. WENTZEL. Yes.

Senator COCHRAN. Is there any other observation you have about how to raise the participation other than getting the program on a sounder actuarial basis and developing better actuarial methods?

Mr. **Wentzel**. If I can change hats, so to speak, and not speak on behalf of the Farm Credit Administration, but rather relying on my experience and observations from involvement in crop insurance, then I would say yes, of course, there are a large number.

If I were placing a priority on those, my priorities would deal with improvement in actuarial procedures. That defines quality of product being sold.

In addition to that, other subsequent steps might be taken. It is necessary to realize that people are voluntarily buying the product. If they don't understand clearly what the product is, and what they are in fact buying, then I can guarantee you that ultimately there is going to be a great deal of dissatisfaction.

Clarification of requirements, for example whether it is possible to get out of the contract once you got into it, should be clearly spelled out. Insurance companies are not noted for writing clear contracts, but as a public program, FCIC has the responsibility to make that clearer than any insurance company would.

Senator **Cochran**. Am I pronouncing your name correctly, Mr. Eatherly?

STATEMENT OF JAMES R. EATHERLY, REPRESENTING THE AMERICAN BANKERS ASSOCIATION

Mr. **Eatherly**. Yes.[1]

Senator **Cochran**. We appreciate your being here, and I have a copy of your statement, which I have read, and we appreciate your contribution to the hearings.

I notice that one of the items you mention in your statement is the concern that by having in place the disaster assistance program, a lot of farmers are not going to pay the premiums required of the crop insurance program, and bank on the fact that if they have a disaster, somebody is going to come in and bail them out.

Is it a corollary to that concern that if we did eliminate the opportunity for disaster assistance that there would be a greater level of participation in the crop insurance program?

Mr. **Eatherly**. I think so, but we have been expanding Federal crop insurance and all-risk insurance, we have been as rapidly as possible.

We feel that if it is in a county and people don't take advantage of it, then they should not be in a position to get disaster assistance. We think there has been some handicap in the Federal crop insurance not being accepted, maybe, as well as had been expected.

Senator **Cochran**. Is there a policy on the part of the bankers in the country to encourage or discourage the obtaining of Federal crop insurance?

Mr. **Eatherly**. I think most bankers encourage it. When you have the insurance premium and you know the crop is insured, you have a sort of collateral in your hands. A lot of bankers around the country hold seminars trying to encourage their borrowers to participate and to take it.

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[1] See p. 128 for the prepared statement of Mr. Eatherly.

Senator Cochran. Has this effort extended to a policy of requiring, or obtaining insurance before credit will be extended, or is that basically left up to member banks?

Mr. Eatherly. It is up to member banks. In some cases, based on the managerial ability of the borrower and his financial worth, a banker will occasionally require insurance before he makes a loan. It is a tool for bankers.

Senator Cochran. In the case of the producer who has a history of high yields and success in farming, I suppose the tendency would be not to require that insurance be purchased before credit is extended?

Mr. Eatherly. Definitely, you would not for that type of borrower.

Senator Cochran. If you did, he would go to another bank.

Mr. Eatherly. You wouldn't have his business long. But for marginal farmers, it is typical.

In most areas of the country, we have found the transition going fairly smooth. This was not anticipated but in our own particular area, some of our customers have an exceptionally high yield of wheat. I felt that the loss factor was too high and maybe the premium was high because they don't make less than 25 bushels an acre on wheat.

We feel there are rough spots in it, but time will permit it to be corrected. We would think that if it were given a chance to work, and maybe if the Congress would not get too involved in it and change it too much, and eliminated some of the back-up disaster areas, it would be good. Few people will purchase insurance and pay a premium if they know they can get disaster assistance free. These are some of our concerns.

Senator Cochran. I appreciate both of your statements, and your being here to help us get a wide range of input into the hearing, and the full text of your statements will be included in the record, and we will have the benefit of all of it.

I notice you liked the concept of using private insurance companies as opposed to a Government agent or Government structure. You may have been here when the Under Secretary and the Manager were testifying about trying to move in that direction to try to include the private sector as much as possible. This would put you in opposition to those who say the ASCS should sell it and manage the program.

Mr. Eatherly. Yes, we feel that the private sector is qualified to have their agency structure set up and organized. We feel they have their adjusters organized. We feel the expertise they have now and with the network of agencies of independent companies across the country would further enhance the desirability of this program.

Senator Cochran. Thank you very much for being here. We appreciate your contribution to the hearing.

Mr. Eatherly. Thank you, Mr. Chairman.

Senator Cochran. Our next witnesses include David Rutledge, chairman, Crop Insurance Research Bureau, Des Moines, Iowa, and Graham Neville, of Taylor & Associates, Inc., Smithfield, N.C., and Mr. Davis A. Hartquist.

We welcome you to the committee. We will ask Mr. Rutledge to proceed first. We have your statements, and will make them part of the record. We ask you to make a summary. We have run out of time.

Just because you are at the tail end of this doesn't mean you are less important than the first ones.

STATEMENT OF DAVID RUTLEDGE, PRESIDENT, CROP INSURANCE RESEARCH BUREAU, DES MOINES, IOWA

Mr. RUTLEDGE. Thank you, Mr. Chairman. I will try to summarize. I am David Rutledge, president of the Crop Insurance Research Bureau, Inc., a trade association representing approximately 50 insurance companies writing or reinsuring crop hail insurance.

With me today is Mr. David A. Hartquist, our Washington counsel.

Our companies provided $5.5 billion of hail insurance protection to the American farmer in 1981. The members of CIRB represent an excellent cross section of the industry with 14 companies on the multiperil program and others that have not yet established a relationship with the Federal Government.

Most of our members who write the multiperil coverages participate in the reinsurance program. I am also president of Farmers Mutual Hail Insurance Co. of Iowa. My company writes about $1 billion of crop hail protection for farmers in 10 States. We have not yet established a multiperil program, for reasons I shall mention in a moment.

Mr. Chairman, I appreciate this opportunity to present the views of the Crop Insurance Research Bureau on the implementation of the FCIC Act of 1980. It is reassuring to know that Senators, such as yourself, and other members of the subcommittee recognize the need to monitor the results of congressional action, particularly in this case. Through this exchange of information we feel the democratic process will certainly be more effective and equitable for the American people.

The single most important goal of CIRB is to obtain removal of the perils of hail and fire from the FCIC Act. This goal is also shared by the National Association of Mutual Insurance Co.'s [NAMIC], the Nation's largest insurance company trade association, with a membership of over 1,160 property and casualty insurers, primarily small farm mutuals.

We recently submitted a study paper to the FCIC describing why we feel hail and fire should be eliminated from the program. Briefly, the reasons are:

Elimination of hail and fire will reduce the cost of the program to the American taxpayer and the farmer who buys the FCIC insurance.

Excluding fire and hail coverages will eliminate direct Government competition with private insurance companies.

The private sector provides hail and fire insurance and recognizes this exposure is the largest single peril the majority of farmers are exposed to consistently.

As pressures mount from ASCS to administer the all-risk program and from lending institutions to increase the levels of coverage, the need for private hail insurance will be eliminated.

Enable the insurance industry to assist the administration in developing an appropriate alternative without fear of designing its own demise.

The full paper is attached to my testimony, and I respectfully request that it be made part of the record of these hearings.[1]

During the debate of the FCIC Act of 1980, CIRB and NAMIC opposed the proposed law for the following reasons:

The expanded multiperil program would cost more than the disaster program. Based upon the act as passed, we estimated a price tag of $600 to $900 million assuming a 50-percent participation of the producers.

The Government was pushing further into the insurance business unnecessarily, rather than identifying those areas best served by private industry and concentrating on those risks the private industry did not have the capacity to assume.

The program did not recognize that exposure to covered perils varies and that rates should be actuarially sound State to State.

The industry recognized that similar promises were made by the Government when flood insurance program was implemented several years ago. The partnership to deliver flood insurance to the public was acceptable only until the program was up and running, then the Government decided to eliminate administration by the industry. Government was asking to consider reinvolving ourselves in the administration of a similar program.

Turning to the program as it has been implemented by the administration, we have the following concerns:

A second slate of management has been installed within 6 months.

My company, along with several other members of CIRB, is losing crop hail business to the Federal program (I have 36 letters requesting cancellation of hail policies by former policyholders who have chosen Federal crop insurance instead of private coverage).

The hail opt-out provision in the law is not working. A GAO study found less than 1 percent of the farmers opted out the hail coverage. The reason is simple—the farmer is penalized if he opts out, suffers a hail loss, and then suffers a loss from a different peril. The FCIC coverage is reduced proportionately even though the hail loss is less than the FCIC deductible.

A program was designed by Congress to utilize insurance companies, but has been implemented by FCIC management that favored master marketing arrangements through former FCIC employees over companies that intend to be risk bearers. An excellent illustration of this phenomenon will be presented by Mr. Graham Neville of North Carolina later in this hearing.

The supposed private-Government partnership operates with a unilateral and arbitrary decisionmaking system.

The program continues to cost more than the designers anticipated, and may even exceed our original cost estimate.

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[1] See p. 89 for the material referred to by Mr. Rutledge.

Companies are entering into the multiperil program simply to try to protect their hail business, recognizing they will probably lose money on the multiperil portion. Again, tomorrow, Mr. Charles Baxter of Kansas will elaborate on this point.

The farmer is suffering from either duplication of coverage, or unfair reduction of, and confusion about types of coverages.

The program preempts State regulation of insurance by allowing unlicensed agents to sell the all-risk coverages.

Some people feel this is not the time to introduce legislative changes in the multiperil program which would eliminate the Government from crop hail insurance. We are told to give the program time and to concentrate on selling the program to the American farmer. After listening to these individuals and attempting to determine which action is best for the farmer, insurance company and taxpayer, we are convinced now is the time to request removal of hail and fire from the FCIC Act of 1980.

How long should taxpayers support Government competition with the free enterprise system that provides jobs and taxes?

Our companies ask, "How long are we expected to lose our hail business just to allow the administration to determine where it is going?"

How long is the farmer going to be asked to duplicate coverage or lose coverage he paid for, but will never receive?

The hail and fire removal could reduce losses by nearly $200 million—at the 50 percent participation level—and simultaneously establish a more adequate rate level as required by the 1980 act. It is essential that the Congress and the administration find ways to reduce costs. Eliminating subsidized Government competition with private industry is the best place to start.

We feel the insurance industry can and will deliver crop hail insurance wherever the need and market exists. The members of CIRB have expressed a sincere desire to become more involved in the multiperil program if it eliminates the concern that they may be digging their own grave and, if the program is made more equitable to the farmer.

But when we constantly hear a beating of the drums for a return to disaster programs and permitting ASCS to administer the program, we question the logic of committing our companies' and policyholders' assets to a unilateral "partnership" with the Government.

CIRB and NAMIC stand ready to assist the administration in providing multiperil coverages to those farmers who need the protection. It has been demonstrated many times that the industry has the distribution system essential to the success of the program. We sincerely want to be involved, but we have no desire to have our management decisions dictated by the bureaucracy nor our policyholders' assets subjected to the political revolving door.

Thank you for the opportunity to share our views. I will be happy to try and answer any questions you may have.

Senator Cochran. Thank you, Mr. Rutledge.

Mr. Neville, we will hear from you. If you have a copy of your statement, we will ask you to put it in the record and summarize it.

STATEMENT OF GRAHAM NEVILLE, NEVILLE, TAYLOR & ASSOCIATES, ACCOMPANIED BY DAVID A. HARTQUIST, COUNSEL

Mr. Neville. Thank you, Mr. Chairman. I appreciate this opportunity to present from personal experience how the FCIC Act of 1980 is actually functioning.

My firm is a managing general agency for crop insurance, and we marketed crop insurance in 1981 through a company reinsured by FCIC. My purpose today is to point out what I believe are three desperately needed changes that must be implemented in order for the all-risk crop insurance program to realize its maximum potential.

These changes are, No. 1, remove the perils of hail and fire from the FCIC Act as just set forth by the testimony of Mr. Dave Rutledge. We believe this direct Government competition with private taxpaying insurance companies should be eliminated.

No. 2, producers who market all-risk insurance as agents directly should be required to meet the same requirements as insurance agents of insurance companies in the State in which they operate, and should be subject to the regulations and the insurance laws in their State.

No. 3, the gross inequity between master marketing organizations and private reinsured companies in the area of responsibility for premium payment must be eliminated.

It is this third item, responsibility for premium payment, that I want to emphasize.

FCIC has stated that their objective is to gain the participation of a majority of farmers buying insurance from an agent representing a private insurance company reinsured by FCIC. This objective will never be realized as long as the inequity in the marketing or delivery system of coverage is maintained by FCIC between master marketing organizations and private reinsured companies in the area of responsibility for premium payment.

Private reinsured companies are responsible for paying the premium for coverage to FCIC whether the farmer policyholder pays or not, and this is as it should be. However, master marketing organizations, which act as managing general agents and as a private business, are not responsible for the premium when the farmer policyholder does not pay his premium. They just do not receive any commission on the sale, but they are not responsible for paying the premium to FCIC.

As long as this inequity exists between master marketing organizations and private reinsured companies, private reinsured companies will not be able to build a sales force to accomplish the objective of FCIC.

Practically all solicitors and agents that write all-risk insurance are doing so with master maketing organizations for the very reason that they do not have to be responsible for the premium if the farmer policyholder does not pay his premium.

Last year we had exactly 136 agents to produce crop hail premiums for us, but we were only able to get 11 of our agents to produce any all-risk insurance for us. They were quick to tell us that they would like to produce the business for us, but as long as they could to it for a master marketing organization, and not be responsible for the premium, that is the way they were going to go. They even said, "We don't care how much commission you pay us, as long as we don't have to be responsible for the premium we are going to give our busines to a master marketing organization."

Our largest crop-hail agent in 1981 who produced in excess of $150,000 in hail insurance premiums estimates that his all-risk premiums in 1982 will be in excess of $400,000, and he is producing this business for a master marketing organization of a former FCIC employee rather than for a private taxpaying insurance company, simply because he is not responsible for premium payment if the farmer policyholder does not pay.

We feel that this problem is not only a problem in our area, but a problem countrywide.

Master marketing organizations take full advantage of the fact that the agent does not have to be responsible for the premium when they recruit agents, and the Independent Insurance Agents Association in our State also recommended to their member agents that they do business with a master marketing organization for the reasons of higher commissions and no responsibility for the premium when the farmer policyholder does not pay. (See attached exhibit A.)[1] This problem of responsibility for premium payment is a countrywide problem and not just confined to our area. The National Association of Mutual Insurance Companies, an organization of 1,160 company members, speaks to this inequity between the master marketing organizations and private insurance companies as set forth in the minutes of their executive committee meeting March 4-6, 1982. (See attached exhibit B.)[1]

Since November, 1981, we have been corresponding and speaking with FCIC officials about the inequity in the delivery system of all-risk insurance in regards to responsibility for premium payment. They have either not understood the problem or dodged the issue.

Finally, in a letter dated May 3, 1982, from the office of the Manager, it is stated that FCIC is studying a method to increase responsibility of master marketers for premium collection, that approach being to indicate in their plan of operation a share or a percent of the premium that must be collected by the termination date of coverage, and unless that specified percentage is collected, the master marketer would be ineligible for a bonus for satisfying its marketing plan.

From that statement it is apparent that FCIC still does not understand the problem and the inequity that private taxpaying insurance companies face, as it still does not put master marketing organizations and private reinsured companies on an equal basis in the recruitment of agents.

Even with this provision, the agent representing a master marketing organization still is not responsible for the premium, and insurance agents' organizations still recommend that their member agents represent master marketing organizations for the reason of no responsibility for premium payment.

We should be practical in our thinking in this regard, and I believe all will agree that the agent or producer of the business is more concerned with whether or not he is responsible for the premium when the farmer policyholder does not pay than he is with a master marketing organization earning a bonus.

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[1] See p. 92 for the exhibits submitted by Mr. Neville.

When we look at this from a practical viewpoint, we cannot help but to conclude that the agent himself is more concerned with his own pocketbook than he is with the pocketbook of a master marketing organization.

Under the present marketing arrangements established by FCIC for master marketing organizations and private taxpaying reinsured companies, farmers are denied the opportunity of a choice from whom to purchase their all-risk protection, and are being forced to buy a Federal Crop Insurance Corporation policy of the Federal Government, because the Federal Crop Insurance Corporation regulations have made it virtually impossible for independent insurance agents to represent private insurance companies.

FCIC is forcing these independent insurance agents to represent the Federal Crop Insurance Corporation rather than private taxpaying reinsured companies because they do not hold the master marketing organizations responsible for premium payments when the farmer policyholder does not pay.

The objective of FCIC to gain the participation of a majority of farmers buying insurance from an agent representing a private taxpaying insurance company will never be realized until master marketing organizations are made responsible for the premium payment to the Federal Crop Insurance Corporation just as reinsured companies are.

We urge Congress to take immediate action to revamp the all-risk program to assure equitable and efficient delivery of a needed service to the American farmer. We feel that in times of Federal deficits, the Government should take steps to reverse Government involvement in responsibility for debts made by others and to reduce the burden of the taxpayer. FCIC should correct this gross inequity in the area of responsibility of premium payment so the objective of FCIC according to the FCIC Act of 1980 can be implemented by allowing private reinsured taxpaying insurance companies equality in the delivery of all-risk crop insurance to the American farmer, rather than promulgate regulations which encourage doing business with the Federal Crop Insurance Corporation.

Our Senator, Jesse Helms from North Carolina, inserted in the Congressional Record April 28, 1982, a statement concerning Federal crop insurance, and I quote:

> To be fully effective, it should have the full support of private industry. In this time of budget cutbacks, it is important to know that the private sector can deliver programs such as this, if only given a fair chance.

Thank you for this opportunity to present those views direct from our experience in the marketing of all-risk crop insurance.

Senator **COCHRAN**. Mr. Rutledge, I think you said 30 policy holders wrote in and asked that their fire and hail insurance be canceled. Have you had a measureable number of those buying an all-risk policy from you? Have you had any change in the kind of coverage they bought from you?

Mr. **RUTLEDGE**. There is no way of knowing that.

Senator COCHRAN. Someone who just had fire and hail insurance, did any of them ask for a multiperil coverage or an all-risk policy from your agency?

Mr. RUTLEDGE. I would guess so. We don't write multiperil, so I have no way of knowing.

Senator COCHRAN. Do you write an all-risk policy?

Mr. RUTLEDGE. No. This one here says, "Please cancel the above policies." The banker requested him to take an all-risk policy. That was the reason for that cancellation. They all took multiperil or multirisk, and canceled their hail and fire.

Senator COCHRAN. One of the problems that led to the enactment of the Federal crop legislation was the fact that the private insurance industry didn't provide or offer to farmers all-risk coverage of multiperil coverage. It was not in the business of selling that.

The Federal Government was basically the only place you could get a policy of that kind. Has there been any change in sentiment, do you think, in the insurance industry to reevaluate the opportunity that might exist for offering all-risk insurance at a competitive premium with the Government?

You have heard some of the farmers testifying that the policy that the Government is offering is unattractive because of the high premiums and low benefits that might be realized in case of a loss.

Has the insurance industry taken a look at this to see whether they can do a better job than the Government can?

Mr. RUTLEDGE. I think they have. Industry can't write all-risk, without the Government's help. We need the Government's help.

I think we can eventually do this. It is possible.

Senator COCHRAN. Tell me a little bit more about the differences in regulations that apply to the insurance agents that you represent and the master marketing organizations you refer to in terms of responsibility for premiums. If I am a farmer and I buy a policy from someone who is working for a master marketing organization and I don't pay the premium, what happens in practical terms?

Mr. NEVILLE. The Federal Government does not receive any money, because the agent who sold the policy does not pay the premium, either.

Senator COCHRAN. But if you sell the policy and I don't pay you the premium, you have to send the premium to the Government and seek recourse against me? You have to sue me?

Mr. NEVILLE. That is correct.

Senator COCHRAN. But in the master marketing organization, there is no collection effort made by the agent who sold the policy to begin with. Is that right?

Mr. NEVILLE. I do not know what collection efforts would be made by the agents who sold the policy. I would assume they would make a collection effort, because they would not receive a commission on that sale unless the premium was paid.

However, the agent that represents the master marketing organization has a decided advantage, because he knows he is never going to lose money. He will just lose the opportunity of earning an income, whereas the agent for the private insurance company not only stands to lose the opportunity of an income, but he also stands to lose the net premium, which is the gross premium less the commission, because he does have to pay if the policyholder does not pay.

Senator **Cochran**. You refer to the taxpaying insurance company. Does the master marketing organization pay taxes? Do those agents pay taxes?

Mr. **Neville**. If they have any net income, they do.

Senator **Cochran**. They are not tax exempt, are they?

Mr. **Neville**. To my knowledge, they are not.

Senator **Cochran**. This is a serious problem. It is one that the committee, I recall, looked at very carefully when the legislation was before the committee, and there was a good deal of concern about whether this was going to be fairly balanced, and whether we were going to get the participation in the program by the insurance industry. Because that is, as you may have heard at the beginning of the hearings, reading from the law itself, there is a directive to get the private industry involved in this and rely primarily on private industry.

But because of regulations, you say that is just not happening?

Mr. **Neville**. That is true. It is having the reverse effect.

Mr. **Hartquist**. I would like to comment on that, if I can, as counsel.

We have a number of companies involved in the insurance program and a number involved in the master marketing program. I think after talking with a number of people in the administration, and I am a good Republican myself, supportive of what they are trying to do, is that the real problem we face is that this administration is so committed to getting away from the disaster program, and to making the concept of crop insurance work, and they haven't told us this, but my conclusion is that they are willing to sacrifice the hail and fire segment of the industry if that is what it takes to accomplish their objective.

We think the program can be made more salable by taking hail and fire out, that the subsidy could be increased, and the premiums can be increased as well.

With the program as new as it is, some think Congress should not tinker with it. We agree with that. I think you will hear from a number of other insurance company associations that we are afraid we can be swallowed up while they are getting the bugs out of the program. That is why we think action should be taken on legislation soon.

Senator **Cochran**. Your suggestion is that Congress will have to act, or is this an administrative action that can be taken?

Mr. **Hartquist**. We think it would require legislation.

Senator **Cochran**. Do you have any legislation that has been introduced by anyone?

Mr. **Hartquist**. Not yet.

Senator **Cochran**. Are you contemplating developing a legislative initiative and presenting it to the Congress?

Mr. **Hartquist**. Yes, we are. It is in draft form at this point.

Senator **Cochran**. Well, I will be interested in seeing what you come up with for Congress to consider. Our committee will have jurisdiction over that, and we will take a look at what your suggestion is for legislative change.

Well, thank you for waiting as long as you have had to to present your testimony to the committee. I appreciate your patience and I apologize for the delay.

I think you have added a great deal to the hearing.

Thank you for being here.

The hearing will reconvene tomorrow with witnesses representing the reinsurance industry, sales and service organizations, and master marketers.

The hearing stands in recess until 10 a.m. tomorrow.

[Whereupon, at 1:41 p.m., the hearing recessed, to reconvene at 10 a.m., Friday, May 21, 1982, in room 324, Russell Senate Office Building.]

OVERSIGHT ON THE FEDERAL CROP INSURANCE PROGRAM

FRIDAY, MAY 21, 1982

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL PRODUCTION,
MARKETING, AND STABILIZATION OF PRICES OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 324, Russell Senate Office Building, Hon. Thad Cochran (chairman of the subcommittee) presiding.

Present: Senator Cochran.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. The subcommittee will please come to order.

I would like to welcome everyone to the continuation of the hearing on the implementation of the Federal Crop Insurance Act of 1980.

Yesterday, we heard from witnesses including Members of Congress, farmers, administration officials and representatives of the agricultural finance community and the private fire and hail insurance industry.

Today, witnesses from the reinsurance industry, sales, and master marketers will testify on their experience in delivering crop insurance to the farmers of America.

We look forward to having the benefit of your statements and observations about this program and what the Congress or the administration can do to improve the program and increase the level of participation around the country.

Our first panel this morning is a reinsurance panel, including Mike Felt, chairman, American Association of Crop Insurers; he is accompanied by John Joyce, member of the board, American Association of Crop Insurers and vice president of the National Farmers Union Crop Insurance Department, Cedar Rapids, Iowa; Mr. Bland Lee, vice president, and Robert Tyler, vice president and general counsel, Old Republic Life Insurance Co. of Chicago.

You may take these witness chairs. We have statements, for which we thank you very much. We will include them in full in the hearing record, and encourage you to make such summary comments on highlights from the statements you see fit.

I apologize for our delay in getting started this morning. We continue to have to deal with the reality of the budget resolution on the floor of the Senate, and that has required an early vote this morning on an amendment.

We may be interrupted as we go through the morning session, but we hope that will not inconvenience you.

Mr. Felt, welcome.

STATEMENT OF MIKE FELT, CHAIRMAN, AMERICAN ASSOCIATION OF CROP INSURERS, AND PRESIDENT, CROP HAIL MANAGEMENT, KALISPELL, MONT., ACCOMPANIED BY JOHN JOYCE, MEMBER OF THE BOARD, AMERICAN ASSOCIATION OF CROP INSURERS, AND VICE PRESIDENT, NATIONAL FARMERS UNION CROP INSURANCE DEPARTMENT, CEDAR RAPIDS, IOWA; AND BLAND LEE, VICE PRESIDENT, AND ROBERT TYLER, VICE PRESIDENT AND GENERAL COUNSEL, OLD REPUBLIC LIFE INSURANCE CO., CHICAGO, ILL.

Mr. FELT. Thank you, Senator Cochran. We appreciate the opportunity to be here this morning and appreciate the heavy schedule you are under, and the late hours in the Senate. We will try to be brief. We do have a printed statement, which we have submitted, and I will highlight a few points of that statement.[1]

I appreciate that we can appear before this hearing in the Senate of your subcommittee.

I am chairman of our association, and Mr. John Joyce is a member and chairman of the steering committee of our association which has worked closely with FCIC management in the development of this program.

Also, Mr. Tyler and Mr. Lee of the Old Republic Insurance Co. are also members of our association, and I believe Mr. Tyler will also have a statement later.

We commend this committee, Mr. Chairman, for the work that they did. We worked with the committee in the implementation of the act, and we commend the job that your committee did. We think that there are American farmers who owe a debt of gratitude to your comittee for the hard work involved in hammering out the Federal Crop Insurance Act of 1980.

We know that the law directs the Corporation to supply reinsurance to private insurance companies and that is the area that we have worked with and the area that our association represents.

We, the members of our association, write over half the crop insurance in the United States and, therefore, we represent quite a segment of the crop insurance industry.

The members of our organization are the reinsurance companies and big agent organizations, the independent agents, and the professional agents, who will testify later this morning.

We are committed to the implementation of the act in the area that provides for the delivery of this system through private insurance sectors and through the thousands of independent agents that the insurance companies work with.

We hear a lot of criticism about the act, and I would like to point out a few of the positive things. I heard the gentleman and the Congressmen from Texas and Senator Bentsen yesterday talk about their concerns, and certainly there are concerns in several States, certainly in the States of the Southwest—Texas, Oklahoma, and Kansas.

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[1] See p. 134 for the prepared statement of Mr. Felt.

I would like to note that the private industry did not gear up in 1981 to really write business in the Southwest. Due to the change in administration, the new insurance contracts were not available until well into the administration's term and a Manager had been appointed for Federal crops.

So our opportunity to write business, especially on the fall crops in the Southwest, was just not available in the 1980 season for the 1981 crop year and that is certianly one of the reasons for the low participation.

In contrast to this, many States in the North, such as Montana, the State that I am from, I would like to point out that 60 percent of the farmers in Montana participated in this program.

In North Dakota, it was 47 percent. I think that is justification that the program does work, is workable, and I think that with the cooperative efforts of FCIC and our industry we can eventually obtain this type of participation in other areas of the country that so far have not accepted the program to that extent.

As was stated here yesterday, the program doubled from 1980 to 1981. Certainly it is not going to double from 1981 to 1982.

However, I think the wrong impression has been made to this committee, and that is, just because disaster payments have been eliminated, we expected every farmer to jump on the crop insurance bandwagon.

As you know, Senator, farmers have many ways of providing disaster protection for themselves. They have for years. We think most of the loaning institutions in the country are aware of the program and most farmers are borrowing money from some loaning institution, and if that institution felt it was necessary, the participation would probably be a lot higher.

I am sure it is a combination of things, good moisture across the country, and there are various other reasons. Farmers are independent people, and it takes them a while to realize that they need to rely on the insurance program and change their past habits.

To this date, approximately 35 companies have signed reinsurance agreements with Federal crop and that represents about two-thirds of the crop-writing companies in the United States.

It is our belief that all 35 of those organizations, now that some stability is being shown in the corporation management and so forth, will move out and aggressively market the product.

We want to commend the Secretary of Agriculture for the decisions that he has made in the program, and we want to wholeheartedly offer our support of the statement that was made here yesterday by Mr. Naylor and Mr. Sprague on the points they outlined to change the program.

Many of these points we have been making for a long time, and we have communicated these thoughts to FCIC management, and certainly we feel this is a move in the right direction.

We feel very confident that this cooperative effort between the Corporation and our industry will get the job done for the American farmer.

We know that first this is a farm program and; second, an insurance program. We have to be ever mindful of that.

So, with that, Mr. Chairman, I want to thank you again for the opportunity to appear here.

Mr. Joyce and Mr. Lee and Mr. Tyler and I will be happy to answer any questions that you may have.

Senator **Cochran**. Thank you very much, Mr. Felt. We appreciate your being here, and we especially appreciate the thoroughness with which you have examined the program and the cooperative way that you and representatives of the member companies have worked with the Federal Crop Insurance Corporation of the U.S. Department of Agriculture and the Congress in trying to come up with ways to improve and make this a workable and effective program for farmers.

Yesterday, we heard from a panel of farmers, stating that one reason the level of participation was so low was that Federal crop insurance was perceived to be a bad investment—it was a bad buy.

What is your reaction to that? Is it a bad buy, or is it a good buy? And if it is a bad buy, how do we make it more attractive to the farmer from a financial and economic standpoint?

Mr. **Felt**. We firmly believe it is a good buy, and we believe that is proven by the areas of the country where the participation is high, like Montana, and the States of the Southeast, where the participation jumped in Georgia, Arkansas, and your State of Mississippi from 1980 to 1981, and we believe it will increase again.

There are areas of the country where Federal crop insurance has not been marketed, and when disaster payments were eliminated, the Actuarial Division put a rate in, and the level of protection undoubtedly needs a lot of research.

I think the necessity to expedite a program to 3,000 counties of the country and on the 28 crops, naturally causes some errors in the calculations and coverage analysis. That needs to be researched.

Committees have been set up to do that, and we appreciate input from everyone.

Senator **Cochran**. You mentioned some specific suggestions in your statement. Page 6 of the statement includes observations about how the FCIC can improve its operations. These included disbursing the computer operations to private companies and relocating field offices into the national office.

Why would that help?

Mr. **Felt**. Well, Mr. Chairman, what worked in a computer in Kansas City will not work in a larger area. It is too cumbersome. Under the reinsurance contract, all the statistics and all the input to the Corporation can be done by the companies through their own computers, and we know the streamlining process that has been developed in that area these days.

Certainly it will expedite the paperwork. One of the problems is paper flow problems.

Senator **Cochran**. Will relocating the field offices have an impact on that?

Mr. **Felt**. Well, certainly some of that needs to be done, because there is no longer a need for a lot of the activity that they had.

Senator **Cochran**. You also make a point in your statement that the disaster payment program termination has not resulted in farmers jumping on the Federal crop insurance opportunity.

Does this mean, in your judgment, that keeping in place some kind of disaster assistance program where the Secretary has authority to respond with some kind of disaster assistance in the unusual circumstances where crop insurance may not be available, or where for some reason it is not effective to compensate for the loss, would have an impact on whether farmers participate in the insurance program?

Mr. **Felt**. Yes; I think it would. Farmers were in the habit of knowing that disaster protection was there, and we are all creatures of habit, and it is difficult to change those habits.

I think if the Secretary came back and said, "Well, if you don't buy crop insurance, we will have disaster payments," it would automatically curtail the sale of crop insurance in these areas.

Senator **Cochran**. There is still in place the disaster emergency loan program administered by the Farmers Home Administration. Is that an example of a disaster assistance program that you think should be repealed by the Congress?

Mr. **Felt**. That is a tough question for me to answer. I am not sure I am familiar with that but I would think the program should not be repealed. Maybe one of these gentlemen would care to answer that.

Senator **Cochran**. All right. He paid your way here. He should get something out of you.

Do any of the members of the panel have any observations you would like to make? We invite you to do so, about any of the subjects you have heard discussed here.

STATEMENT OF ROBERT TYLER, VICE PRESIDENT AND GENERAL COUNSEL, OLD REPUBLIC LIFE INSURANCE CO.

Mr. **Tyler**. I think we would reiterate what Mr. Felt said about the passage of the 1980 law.[1] We think it is the greatest boon to agriculture that has come along in many, many years, making available a way for a farmer to insure that he is going to recoup his costs of putting the crop in.

I think that is a fundamental need, and we applaud the Congress for having done that.

We, of course, hear from different areas of the country that the cost of the insurance is too high. I don't know whether that is universal. I don't believe it is. We think that one of the reasons that probably that feeling is out there in the field is because the crop hail insurance is included on an optional basis in the multiple peril package, and we believe it ought to be excluded, thus automatically affecting the rate for the remaining perils to some degree.

We also believe that the mechanism for determining average yields is unwieldy and it is a rather difficult thing to understand, and though there has been some improvement in the last year with the introduction of individual yields to go along with ASCS averages, it still is an area that needs to be addressed, and it needs to be better understood by the farm population.

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[1] See p. 140 for the prepared statement of Mr. Tyler.

We believe that one of the areas that could be improved is the—for want of another word—the advertising of the program. We believe that somehow it could be explained to the farm population in such a way that would make it much easier for them to understand, and, therefore, would incline them to participate in the program much more broadly, which we believe is very fundamental to the success of the program in the long run.

On the subject of doing away with disaster payments, fundamentally, I think we believe we can do away with them. Anyway we can do away with them is better for the farmer and the public of America.

How long you retain something that is in place to make sure that a new program isn't somehow going to fall on its face is an imponderable, as you have suggested, Senator, but ultimately if we can do away with those disaster payments and see this program become self-funding without a real need for subsidy by the Federal Government, then we have got us a good program.

Senator COCHRAN. That is, of course, the objective, and it is hoped that, by having these hearings and getting input from you and those whom you represent, we can make that become a reality.

I heard yesterday in some testimony that there was some sentiment for using the ASCS records on yields to try to have one way of establishing yields. Of course, it was stated by the administration witnesses that if farmers can prove their yields, and if there is evidence in support of claims for yields, that will be used.

I think that is a serious problem that definitely needs more attention and education. The education aspect of that problem is one that needs to be addressed.

To be sure we have this for the record, you are Mr. Bland Lee?

Mr. TYLER. No, I am Mr. Bob Tyler. This is Mr. Lee on my left side.

Senator Cochran. I wanted to be sure for the record we had that.

You are vice president and general counsel of Old Republic Life Insurance?

Mr. TYLER. That is right. I might explain that we are a group of companies, Old Republic Insurance, International Business and Mercantile Reinsurance, and Old Republic of Texas which have been very big in the crop hail business, and more recently we have gotten into multiple peril with both feet and we like the temperature of the water.

Senator COCHRAN. We appreciate your being here, and thank you for contributing to the hearings in the way you have.

Our next witnesses include a sales and service panel, Daniel J. Morrissey, chairman of the Farm Agribusiness Committee of the Independent Insurance Agents of America; Neal Miesbach, Professional Insurance Agents, Omaha, Nebr.; Charles Baxter, vice president and general manager, Farm Bureau Mutual Insurance Co., Manhattan, Kans., testifying on behalf of the National Association of Independent Insurers.

We welcome you to the committee. Senator Dixon asked me to pass along his personal words of welcome to you, Mr. Morrissey. He regrets he is not able to be here. He is a member of our committee and a very effective new Member of the U.S. Senate. We pass along his welcome to you.

We will make part of the record your statements, and hope that you will be able to summarize them.

STATEMENT OF DANIEL J. MORRISSEY, CHAIRMAN, FARM AGRIBUSINESS COMMITTEE, INDEPENDENT INSURANCE AGENTS OF AMERICA

Mr. **Morrissey**. Thank you, Mr. Chairman.[1]

My name is Dan Morrissey. I am executive vice president of Lohman Brothers, Inc., an insurance agency in Geneseo, Ill.

I am also chairman of the Farm/Agribusiness Committee of the Independent Insurance Agents of America, Inc.

IIAA is the Nation's oldest and largest insurance producer group with 34,000 member insurance agencies representing 126,000 licensed agents and over 200,000 employees nationwide.

Mr. Chairman, FCIC acted recently in requiring State licensing of crop insurance agents. We learned of this action the same moment our testimony was being prepared to file with the subcommittee. Because of this issue, which was our top priority, and we had focused heavily on this, I request that you allow us to withdraw our previously filed statement and submit an amended version on Monday afternoon.

Senator **Cochran**. That will be satisfactory, and it will be included in the record in full.

Mr. **Morrissey**. Thank you, Mr. Chairman.

I will try to summarize some of my thoughts concerning the farm agents that have sold and serviced crop insurance and continue to do so under the Federal crop insurance program.

Our national association and several of our farm State affiliates have worked with the FCIC, both before and after enactment of the Federal crop insurance program, to develop an FCIC Federal crop insurance contract designed to reflect prevailing industry standards and to faciliate the sale of Federal crop insurance through private agents licensed under authority of existing State law.

For this reason, IIAA has a keen interest in the Federal crop insurance program, and played a key role in working with the Congress to help produce a program that attempts to harmoniously combine the strengths of Federal Government and private sector participation. Despite a shaky start, and unresolved issues associated with the reinsurance contract, uncertainty about the unawareness of the program among farmers, and initial wariness between some regional FCIC offices and local agents associations, the program now has an opportunity to improve and expand to fully meet the needs of America's farmers.

Nevertheless, several issues continue to threaten to impede the program's progress and ultimate success, and thus need to be examined by this committee as it performs its all-important oversight responsibilities.

IIAA is grateful for the opportunity to participate in this examination, and believes that all interested parties ultimately will benefit from this committee's intention, in the words of John Locke, "not to transfer the power of making laws into any other hands."

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[1] See p. 142 for the prepared statement of Mr. Morrissey.

Mr. Chairman, many groups have come before you in the last few days with different testimony. I have reviewed the administration's testimony and tell you that today the beginning of the 1982 crop year the farmer will enjoy more and more professional advice from the agents.

Licensed insurance agents are professionals. We are community oriented small business people. IIAA's motto is, "We serve you first." It is not just our motto. It is true.

I know one of the witnesses yesterday alleged that some "agents" had misrepresented the contents of the crop insurance policy. The current situation with unlicensed, untrained persons selling the product would allow that sort of abuse.

I was prepared to say abuses today as well. The new requirement will eliminate that problem. When agents are licensed under State law not only must they meet certain approval requirements, but the consumer has a recourse to the State insurance commissioner's office.

We are proud of our professionalism. IIAA recognizes that the license requirement places more responsibility on our shoulders as a national association. We place our considerable resources at the disposal of the FCIC and this subcommittee.

As chairman of the farm agribusiness committee of the association, I am prepared to make recommendations to our executive committee that will help this partnership get off on the right foot.

We accept both the challenge and the responsibility of the board's decision and are prepared to offer our services to the American farmer.

A couple of closing comments. We feel at the present time that the optional hail and fire coverage should remain in this program, at least for this year. We also feel that the Federal crop insurance program most of all needs a chance to work.

It also needs the subcommittee's support to conserve and increase the private sector's role. Without that, expertise, marketing expertise, and efficiency, what began as an experiment will almost certainly fail, and that will cause increased Federal costs.

Thank you, Mr. Chairman, for the opportunity to testify.

Senator COCHRAN. Thank you, Mr. Morrissey.

The signals have come on for a vote on the floor, another amendment to the budget resolution.

I think that rather than begin any other statements at this point, the appropriate thing to do would be to recess for 10 minutes and I will be back and we will continue, if you will excuse me.

We will stand in recess for 10 minutes.

[Brief recess to vote.]

Senator COCHRAN. The subcommittee will please come to order again.

We will continue hearings on our panel of sales and service representatives, and next is Neal Miesbach, professional insurance agents, Omaha, Nebr.

STATEMENT OF NEAL L. MIESBACH, REPRESENTING THE NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS

Mr. MEISBACH. Thank you, Mr. Chairman, for inviting us on behalf of the professional insurance agents to appear before your committee.

My name is Neal Meisbach. I am an independent insurance agent from Omaha, Nebr., and I am here today on behalf of the National Association of Professional Insurance Agents, better known as PIA.

PIA is a national trade association representing more than 38,000 independent property and casualty insurance agents in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Canada.

I am an ex officio member of PIA's Federal Affairs Committee and their special representative to the National Crop Insurance Council.

I also serve on the advisory board of the American Association of Crop Insurers.

PIA commends the subcommittee's distinguished chairman for holding these oversight hearings on how successfully the Federal Crop Insurance Corporation (FCIC) has responded to comply with the Federal Crop Insurance Act of 1980 (Act).

We welcome this opportunity to present our positions and observations on the progress of this new program.

By the way, I am not going to try to read this entire statement. It is a summary of the full statement that you have.

Senator COCHRAN. Fine.

Mr. MIESBACH. PIA was active in political efforts to develop a sound crop insurance program during the 96th Congress and concentrated our lobbying on structuring a statutory framework that would include private insurance companies as risk bearers, marketers and servicers of a major portion of the insurance involved, and utilize licensed independent insurance agents as the sellers and servicers of this line of business.

After extensive negotiating by a broad range of interested parties, the language that finally became law provided for actuarially sound all-risk crop insurance that would eventually cover all commercial crops, based on a unique partnership between the FCIC and the private insurance industry.

Testimony thus far indicates that there are some mechanical defects in the functioning of this Federal crop insurance all-risk program, but that same testimony would indicate to us that those needed adjustments can be made or are already in the process of being worked on by Mr. Naylor, Mr. Sprague, and their staffs.

We would only take enough of the committee's time to reinforce a few points. We are pleased to see that FCIC plans to require all agents selling this program to be licensed by their respective States.

We urge that the success of this program not be judged strictly on the basis of participation. We respectfully suggest that when we have a healthy agricultural economy, participation will follow.

Many farmers today are not financially able to afford crop insurance of any kind.

In several items of previous testimony, the suggestion has been made for more ASCS involvement, if not complete takeover of the program by that organization.

We submit that this solves nothing, but to add confusion for the farmer. It increases the cost of the program by reason of necessary additional training expenses, not to mention the expansion of another Federal agency and generally runs counter to the mandate in the law directing involvement of the private sector to the maximum extent possible.

Lastly, even though we can agree that it would be nice to have fire and hail removed from the program, we earnestly suggest that this is not the time to make major adjustments. More time needs to be given to fine tuning of the program before attempting an overhaul.

Mr. Chairman, PIA remains a solid supporter of the Crop Insurance Act of 1980. We give you our assurance that our members are anxious to work with the responsible officials whose aim it is to continue improving this law for the benefit of the farmers of America.

We thank you very kindly for inviting us to present our views.

Senator **Cochran**. Thank you, Mr. Miesbach. We appreciate your testimony very much.

Mr. Charles Baxter?

STATEMENT OF CHARLES BAXTER, VICE PRESIDENT AND GENERAL MANAGER, FARM BUREAU MUTUAL INSURANCE CO., ON BEHALF OF THE NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

Mr. **Baxter**. Thank you, Mr. Chairman.[1]

I am chairman of the NAII Crop-Hail Committee. NAII is a voluntary nonprofit trade association of 512 companies. These companies constitute the largest association of this type in the insurance industry. They write about 40 percent of the automobile insurance, 25 percent of the homeowners, and large portions of other coverages, including crop fire and hail.

My testimony indicates that in our judgment the FCIC is a critial management state of development at this time, that will involve not only the Government insurers but also farmers.

We are concerned about costs. Initially our actuaries indicated that they felt the cost of FCIC would be a billion dollars by 1986.

We now see that this timetable could be accelerated.

For example, the appropriation for FCIC for fiscal 1983 is $717 million. At no year in the disaster relief program did the payments exceed $700 million, and we are only dealing with 19 percent participation now. You can see that by the time it gets to 50 percent you are really going to have accelerating costs.

We are concerned about the subsidized program that is being offered by FCIC, by the Government entering into direct, unfair and unhealthy competition with private industry.

My company is participating as a direct writer of crop insurance for FCIC, and we are reinsuring, but I think that you need to know that my company, along with many other companies, is participating in the program mainly from the standpoint of preserving our book of business, and I sure second what FCIC has come up with in the previous statements of the two individuals.

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[1] See p. 155 for the prepared statement of Mr. Baxter.

We need professional people out selling crop insurance. I understand that there have been soap salesmen out selling crop insurance, and this does not give the technical expertise to the industry that it deserves.

We are concerned about actuarial rates. In 1981, FCIC paid out $107 for every $100 of premium it took in.

Then you have to add to that management expenses. Now, 1981 was a good crop year. What is going to happen when we have an average crop year or a disasterous crop year? The experience is just going to be horrible.

In the 44 States where FCIC operates, 27 of them have been continuously in the red. When you look at a company like mine, operating in Kansas, and there are many companies that are one-State operations, you see that our existence is based on our experience in that State. The only way we can continue to be a viable entity in the insurance market, whatever it is, is to make money in Kansas. With this type of historical rating basis, many States are going to face many problems. Kansas' experience has been good. But I am concerned beyond Kansas.

I am concerned about those States that have been continuously in the red.

I would like to just talk a little bit about the management challenges that FCIC has, and I will summarize these briefly, but we were assigned a thousand contracts by FCIC. They gave us 130 files that were transferred with requests for cancellation. The people wanted out of the program. A number of files we received indicated that the 1981 premium hadn't been paid, so we became a collection agency for FCIC, and we were asking these people to pay up.

Now, there were losses in a number of files, and this is suspicious to us. We got a letter dated February 12, 1982, telling us that the FCIC National Service Office in Kansas City lost the 1981 spring crop acreage reports. We have 104 inactive files which couldn't be determined until we had been through the file from top to bottom, at considerable expense.

We couldn't even process 1982 wheat files. We don't have the 1981 experience rating factor. I checked before I left the office the other day, and we still don't have the experience rating factors for two drawers of files. You can't determine premium and get notes signed if you don't have that.

We have turned down applications for spring season barley which the regional FCIC office had authorized and written at full rates, and the national office says there is no coverage of rates for spring season barley.

I could give you more, but I think a crowning blow to me was we had a loss on a file that was transferred to our company where the wheat was seeded by airplane. This is plain and simply not an acceptable wheat agricultural practice in Kansas.

Yet, no one at FCIC questioned the validity of this type of an operation.

We are concerned about Government intervention in private industry in general, and specifically in two areas.

Let me give you an example of what happened in the flood program. When the flood program was initially started, the industry wrote about 10 percent of the business and the Government wrote 90.

In 1977, when the Federal administration took over, that joint operation had developed into a 40-60 split, and then by bureaucratic fiat, the Government took it over completely.

GAO says the flood program is in total disarray that they cannot audit their operations. We would surely hate to see the crop insurance program go down this same road.

We have two specific recommendations. We don't like to be in business in competition with the Federal Government and we believe in the strongest terms that hail and fire should be removed from FCIC.

Private industry can write the coverage, as we have for years, and we have had very few of our policyholders elect to take hail and fire out of FCIC.

We got into the program late, started writing spring crops. We wrote 150, and only three of those policyholders elected not to take hail and fire.

Now, this is higher than the national average, which is less than 1 percent. So you can see that there is going to be an erosion of the hail and fire business from the private industry into FCIC.

So we think we need to carve out hail and fire, and we need adequate rates in all States, so that we are not placed in the position of robbing Peter to pay Paul.

We think these two changes will give FCIC a manageable and effective crop insurance program if they can meet the management challenges that exist.

Thank you very much for giving me this opportunity.

Senator **Cochran**. Thank you, Mr. Baxter.

Does the suggestion for adequate rates in all States include the suggestion that rates are too low, the premiums charged to farmers are too low under the FCIC program?

Mr. **Baxter**. That is correct. I don't know what the historical rate is, but I believe for the 40 years that FCIC has been in operation, their loss experience based on purchase losses to premiums has been 111 percent.

Senator **Cochran**. Is this a position that is shared by the American Farm Bureau Federation?

Mr. **Baxter**. I believe that is correct, yes.

Senator **Cochran**. You mentioned some problems in the operations of the Kansas City office.

They are playing my song again. Let me interrupt at this point, and if you can, stay for a few questions. I would like for you to, if that is possible.

We will stand in recess for 10 minutes.

[Brief recess to vote.]

Senator **Cochran**. Resuming our questions to the sales and service panel, I was about to ask Mr. Baxter when we took our break about the operations of the Kansas City office. You mentioned in your statement some very serious problems they were having, losing files and a lot of things were falling through the cracks there.

Have you had an opportunity recently to make any determination about whether that situation has improved or gotten worse, or stayed about the same?

Mr. **BAXTER**. It hasn't improved. I have a letter here in a file that, you know, I couldn't get into in much more detail than I did in a brief statement, but I have a letter here from a lady in Chelham, Wash., that wrote to our company and said that she wanted the Farm Bureau in Kansas to carry the multiperil crop insurance, and that she had sent her money to the National Service Office in Kansas City.

Due to a technicality, she was without insurance coverage.

Our crop insurance manager called the Kansas City office and explained the situation to them and asked that they either send the money to us so that we could return it, the individual wanted to be insured in 1983, or ask them to return it direct.

Their response, "We will not return the money until they petition for it."

Now, private industry couldn't operate like that. If we did, you would see the biggest clamor in Washington for regulation of the industry that ever existed. And there are more.

Senator **COCHRAN**. Each of you made observations about the inclusion of hail coverage in the FCIC program. One of the reasons given for the hail opt-out provision was that the statutory premium reduction is inadequate.

Is there a way to describe this so even a layman like me can understand it, or how does that discourage the farmers from using the opt-out provision?

Mr. **MORRISSEY**. I will try that, Senator. First of all, I think it is an educational process in that you have to understand what you are doing to not only the rate level in reducing a premium, but you also have to be able to explain to that farmer that his guaranteed level, if it is 75 bushels of corn that is going to be reduced if he has a hail loss, for example.

I think maybe everyone is partly to blame that we have not educated people in the selling force of what that does.

To go out and say, "We will reduce your premium by taking the hail and fire out." Addressing the situation you discussed, there are some inadequacies, I think. I think in some areas there is not enough credit and in others, perhaps there is too much.

They used the prevailing hail rate by township. We did use actuarial figures on the thing. Nothing is perfect, but in my own experiences in my own office, we have used that, but I think, again, I was fortunate enough to be involved in this program in the start and was able to explain it better to the American farmers in my area.

I take part of the blame in our association for not getting that message to agents, and I think companies, other companies, will feel the same way.

But we are still in favor that this thing should be optional at this time. I think we can work around the inadequacies.

Senator **Cochran**. Does there need to be some change made in the provision or some administrative change made to make this opt-out provision more workable?

Mr. **Morrissey**. Well, possibly—again, I think it comes back to my first statment in educating the people and explaining how this program actually works.

I don't think we have done an adequate job of doing that, not only the agents, the companies, and everybody.

You can use it in a manual, but until you go out and use that thing every day, it is not going to happen.

Mr. **Baxter**. Mr. Chairman, may I take off on his comment?

Senator **Cochran**. Sure.

Mr. **Baxter**. If you take hail and fire out, the industry will determine the rate level as they presently do for that particular coverage.

The residual exposure to FCIC can be actuarily determined, so each will carry its proportionate rate for the relative risk and exposure.

Senator **Cochran**. Well, would this require any administrative change, or what kind of change would need to be implemented to make that possible?

Mr. **Baxter**. We think it needs to be a legislative mandate by Congress to remove hail and fire from the multiperil crop coverage.

Senator **Cochran**. There was an interesting observation made, I think, by Mr. Miesbach, that in spite of promotional activity, advertising and the like, you are really not going to get a higher level of participation until the farm economy improves, but when we do get that improvement, there will be more and more participation in the Federal crop insurance program.

Is there, at this time, an appropriate rate allocation of resources in the corporation, in your judgment, for promotional activities?

If what you say is true, should the advertising schemes and the promotional activities be given a lower priority?

Mr. **Miesbach**. I don't know, Senator, as far as priorities are concerned, you know, historically, insurance industry advertising has been rather poor. It didn't make any difference what line of coverage you were talking about. They never put together very good ad campaigns.

In this time, it just seems to me that the promotion—well, there was an example given yesterday of a horrible sounding ad that probably should not have seen the light of day, but it wouldn't have made any difference, I don't think, if that had been the best ad in the world.

If the farmer hasn't got the money to buy the coverage, he can't buy it. That is all. He is at the point now where he just has to make some business judgments about where he is going to spend his money, because he may have to take what few dollars he has and buy diesel fuel rather than insurance.

Senator **Cochran**. Mr. Baxter, would you like to comment?

Mr. **Baxter**. Mr. Chairman, advertising obviously is a need to sell any product, but I will guarantee you that if you will remove hail and fire from FCIC coverages, we in Kansas will aggressively market the product, given an actuarial rate that will give us a reasonable opportunity for profit.

Senator COCHRAN. You will market the Federal crop insurance policy?

Mr. BAXTER. We will.

Senator COCHRAN. What level of sales do you have in the fire and hail coverage now as compared to, say, 1979 or 1978? Have you noticed any appreciable dropoff?

Mr. BAXTER. No. About a 10-percent increase. We wrote about 6 million in 1980 and 6½ million the next year.

Senator COCHRAN. Maybe the FCIC is helping you do that.

Mr. BAXTER. I would take exception.

Mr. MIESBACH. It is true industrywide insurance sales are up 20 percent across the country on the fire and hail perils.

Senator COCHRAN. So maybe this entire effort has focused attention on the need for some kind of insurance, maybe not the Federal crop insurance policies.

Mr. MIESBACH. Very possible.

Senator COCHRAN. What, in your judgment, Mr. Morrissey, would happen if we did make a change that would remove the hail insurance from the FCIC? What would the reaction of the farmers be?

Mr. MORRISSEY. Well, at this point in time, I think there would be more confusion out there amongst the American farmers. He is confused now. First of all, we had to tell him he didn't have low yield payments any longer, and the program was an insurance mechanism, and he was going to pay part of it and the Government was going to pay part of it through a subsidy.

But if we were to do this at this time, Senator, I believe there would be chaos or confusion among the farmers.

I am not saying down the line that this shouldn't happen, but I believe at this point in time we would have difficulty.

Senator COCHRAN. Do you agree with Mr. Miesbach that the level of participation is going to go up when the economy improves and there is no real need right now to concentrate a big bunch of bucks into an advertising campaign or anything else to help improve the level of participation?

Mr. MORRISSEY. Yes, I agree with those comments.

Hey, it is tough out there on the farm, and there are guys budgeting things that haven't been budgeted before.

I think the lending institutions are asking the American farmer to insure his crop. I have people insuring crops who haven't bought insurance in 20 years. They are doing it because the banker said they should have the protection, especially without the low yield disaster program.

Senator COCHRAN. I think your testimony and answers to the questions have been helpful to the committee.

Again, we express our appreciation for your being here and helping us in the way you have. Thank you very much.

Mr. MIESBACH. Thank you very much.

Senator COCHRAN. Our next witnesses include master marketers, Mr. William Bracey, member of the board, National Association of Crop Insurance Agents, Blytheville, Ark.; Ernest L. Ross, president, E. L. Ross, Inc., Enfield, N.C.; Cliff Ouse, member of the board, Communicating for Agriculture, and Peter Risbrudt, president, C. A. Member Service Corp., Fergus Falls, Minn.

I apologize for mispronouncing any of those names, if I did.

We want to welcome you to the hearings and advise you that we have copies of your statements which we will include in their entirety in the record.

We would invite you to make any summary comments that you would like from them. Thank you for being here. Mr. Bracey.

STATEMENT OF WILLIAM BRACEY, MEMBER OF THE BOARD, NATIONAL ASSOCIATION OF CROP INSURANCE AGENTS, ACCOMPANIED BY JUDY ANDERSON, ASSISTANT EXECUTIVE SECRETARY

Mr. **Bracey**. Mr. Chairman, I am Bill Bracey of Blytheville, Ark., and I own and operate an independent insurance agency in Arkansas.

Also, I am a member of the PIA and IIAA, and I am the southeastern U.S. representative for the board of directors of the National Association of Crop Insurance Agents.

This is Judy Anderson, our assistant executive secretary.

Earlier, our association had submitted a great number of required copies of testimony that we had planned to give, but due to events that have transpired we are going to have to change that, and we have a new paper that will be more brief if I simply read it.

Senator **Cochran**. That is fine. Please proceed in that way.

Mr. **Bracey**. Having read the testimony of Mr. Sprague and others, and Mr. Neville, a private insurer, we are compelled to depart from our prepared remarks, but I do wish them to be included.[1]

Senator **Cochran**. They will be made part of the record.

Mr. **Bracey**. Our association is private, and promotes the maintenance and continuation of the crop insurance program to serve the farmer and cooperate with the Federal Crop Insurance Corporation and the private industry in the promotion and expansion of the marketing of crop insurance.

Our association has 950 insurance agents and brokers of whom approximately 90 percent are licensed insurance agents, and they serve over 90,000 farmers.

For the 1982 crop year, our association members renewed over $95 million in premiums from the preceding crop year and wrote new business amounting to $23 million in premiums.

Now, this translates into approximately 15 million acres of farmland insured by the Federal Crop Insurance Corporation through our association.

That would be approximately $2 billion of business or liability. These amounts represent approximately one-third of all the Federal crop insurance that is in force and more than all the crop insurance written by all the private reinsurance companies combined.

In light of this, we were particularly disappointed in Mr. Sprague's testimony, which emphasized the role of "established private insurance companies" but neglected to mention that the law requires that his board, "shall, to the maximum extent possible, encourage the sale of Federal crop insurance through licensed private insurance agents and brokers."

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[1] See p. 161 for the prepared statement of Mr. Bracey.

I was also disappointed to know that he neglected to explain the policies his corporation has adopted to fulfill his statutory mandate. Unfortunately, this neglect typifies the Corporation's attitude toward master marketers.

The Corporation, under the stewardship of Mr. Sprague's predecessor, announced its goal of moving all crop insurance coverage to the private, reinsurance sector. In other words, the law I quoted was to be ignored. Management has changed but the goal has not.

In a letter to the Corporation dated January 25, 1982, our association documented and dissented from the policies the Corporation had adopted that undermined the sale of crop insurance by private agents.

While I will touch on these policies, I would like that letter included in the record.[1]

Senator COCHRAN. A copy of it will be made part of the record.

Mr. BRACEY. We are presently preparing objections to the Corporation on its new charge to farmers of 18 percent annual interest on any late premium payment.

These comments, which will further demonstrate the Corporation's one-sided approach, will be submitted to the FCIC on June 1. I respectfully request this record be kept open until then so that those comments, too, can be included.[2]

Senator COCHRAN. In the record of this hearing?

Mr. BRACEY. Yes, sir.

Senator COCHRAN. It will be kept open and we will be glad to receive your comment and include it as part of the record.

Mr. BRACEY. Thank you.

Mr. Neville, in his testimony, urged equality of regulation between master marketers and reinsurance companies. He stated that equality required master marketers to collect premiums because reinsurance companies do. Mr. Sprague stated the Corporation would comply with Mr. Neville's request.

Mr. Neville failed to state that he collects premiums because the premiums are his. Premiums are his property and he keeps them. They are his company's.

The brief financial summary that Mr. Sprague submitted attests to this fact.

We do not collect premiums because they are not our property. We could not keep them even if we collected them.

Unlike Mr. Neville, we are not in the insurance business; we do not underwrite risk. The Corporation collects premiums because it is the insurer and premiums are the property of the Corporation.

Like Mr. Neville, I, too, want equality. The Corporation abolished its historic practice of advancing agents' commissions but it has not stopped its historic practice of advancing Mr. Neville's reimbursement for his expenses.

I want my commissions advanced just as Mr. Neville's reimbursements are. In fact, I want some of my administrative expenses reimbursed because they are the same as Mr. Neville's.

Indeed, if I have to collect premiums I should have an even greater right to reimbursement than Mr. Neville does because my collection will save the Corporation money and his collection does not.

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[1] See p. 164 for the letter referred to by Mr. Bracey.

[2] See p. 167 for the material referred to by Mr. Bracey.

Finally, I don't want the Corporation to charge farmers who buy Federal crop insurance 18 percent interest on late premiums. I don't think Mr. Neville charges his customers 18 percent and if he does, he should be ashamed of himself.

If the Corporation cannot or will not pay advances and reimburse my expenses, then I, too, want legislation to make things equal.

Perhaps the Congress will decide to revoke Mr. Neville's statutory right to reimbursement and prohibit advances to him.

Mr. Sprague stated that his Board has agreed to the immediate establishment of financial standards for master marketers.

I don't know what standards, if any, the Corporation has for insurance companies and I don't know what it will adopt for us.

I hope this committee will obtain this information for the record before the standards are adopted and reconvene this hearing, if necessary, to protect its statute from administrative invasion.

In conclusion, the damage the Corporation's policies have caused master marketers have equally damaged the program it administers. This is evidenced by the high rate of cancellations the Corporation has suffered.

Time did not permit me to gather my statistics but I do know that in its March 1982 sales report the Corporation even abandoned reporting the amount of premiums cancelled. That rate was embarrassingly high.

We sincerely appreciate this opportunity to testify. Before the day ends I will supply 60 copies of my statement in proper format. We will be happy to answer any questions that you may have or furnish any additional information you may desire.

One thing I meant to mention, and this is an add-on, but this position of whether to remove hail insurance from the crop insurance contract. If you remove it, I am in a hot hail area. We write enough hail insurance that we can't get a company to come in there and supply us with enough capacity to write that business.

If you pull hail out of that contract, you will leave a lot of farmers in the hardest hit areas who won't have hail insurance, because the private companies cannot, will not, and should not come in there and write business in an area that has a rate that they don't consider to be adequate.

They don't have the financial capacity. We have got one of the biggest companies in the business, but they say, "You can only write this much in this township and so much in this township."

You take a man with 1,200 acres of cotton at $300 an acre, and a couple of thousand acres of soybeans. You can fill up one insurance company with that one contract.

Now, if they take it out, he doesn't have any choice, and no company would guarantee that there was a market.

I am here because I am in that business. How do we know that the companies will provide a market for the hail insurance that they want to exclude?

If the gentleman that was from Kansas could tell me. That is a real problem.

I think it was a general agreement that that probably wasn't thought of?

Senator COCHRAN. I don't think it is appropriate for you to question him.

Mr. BRACEY. I am sorry. He is an agent. I am sorry.

Senator COCHRAN. You convene your hearing next week.

[Laughter.]

Senator COCHRAN. Are any other members of the panel providing a statement? If so, I would invite you to do so.

Mr. Ross?

STATEMENT OF ERNEST L. ROSS, PRESIDENT, E. L. ROSS, INC.

Mr. ROSS. Thank you.[1]

I am happy to have this opportunity to appear before this committee. I am primarily in the property and casualty as well as the crop insurance business in North Carolina. I have acquired a master marketing contract 7 months ago in October 1981, and I have developed an organization primarily of independent agents from small communities, and some FCIC employees who were RIF'd from the service of FCIC.

We have had a very good year. We have acquired and are servicing more than 15,000 FCIC contracts that were previously serviced by FCIC and ACSC offices.

We have additionally sold and will service over 2,500 new farm participants in the program this year.

We are very proud of our accomplishments.

Yesterday, I was very pleased to hear that the Board of Directors of FCIC was going to rework the 1983 contract. As a member of the Master Marketers Development Association Committee, we met with the Past Chairman Melvin Sims on March 30, and we viewed many of our concerns about the 1983 contract and requested amendments to the contract. This was summarized in Board Memorandum No. 62 by Mr. Sims.

I think, after hearing some of these pending changes, and the guaranteeing of the premium, it is even more necessary to amend that 1983 contract.

I would like to speak to one issue which is not in my statement on premium guarantee. The 2,500 new participants that I mentioned earlier were sold predominantly by independent agents, who elected to sell under my master marketing contract rather than to guarantee the premium of the reinsurance contract, which I can also offer the agents.

All-risk crop insurance creates tremendous liability either to FCIC, or to the companies. Likewise, it creates quite a large premium liability to the agents.

I don't feel that the small independent agent can necessarily put his assets on the line for $300,000 or $400,000 in premiums. I think I know how I can handle my situation, but I am not sure that all master marketers will be able to.

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[1] See p. 179 for the prepared statement of Mr. Ross.

I think there are potentially tens of thousands of farmers' contracts that will be orphaned, and I am not sure who would service them. I think premium guarantees need to be looked at.

I think the FCIC should reconsider the guaranteeing of the premium, because I think it will hurt sales efforts and require marginal farmers to borrow money early to pay premiums so they can buy coverage.

I am also concerned that if I took a note to the farmer and said, "You owe the Government a $10,000 premium, sign my note," he might look at me cross-eyed.

I am not sure legally, in a bankruptcy court or otherwise, that the premiums I am responsible for could be recovered by me!

So I think this needs to be reviewed carefully before the 1983 contract is drawn up.

I feel there is even a better solution that has not been presented and I see no fault with it, that the FCIC require neither the master marketers or the reinsurance companies to guarantee the premium.

FCIC currently keeps a bad-debt list for the master marketers contracts, and they could do so for the entire industry.

I have been told they do an excellent job and eventually collect 99 percent of the premiums due them. Of course, they have better resources than the agent has.

I would propose this for potential consideration.

Another issue that many people have addressed is whether to take hail out of the program. In North Carolina, we have 70 percent of the tobacco insured by FCIC. Over a 32-year period ending in 1979, FCIC had paid out 15.6 percent of the FCIC losses due to the peril of hail, Drought and dry weather accounted for much more than the hail in the FCIC payments.

If you remove the hail from the tobacco program, the premium credit is not sufficient for the farmer to buy the first-dollar type coverage that is being offered.

We need a large deductible hail policy offered by the private sector that would be compatible and comparable to the Federal crop hail coverage and then I would be willing to support its removal from the program.

I would like to say that one exception that I would like to see made on the licensing of people selling all-risk insurance is that a lot of these county office girls who have been in the business 15 or 20 years who are now independent agents be exempt from this under some grandmother clause or grandfather clause, because I don't think being licensed will make them a better servant of the farmer.

To close, I would like to express my appreciation to the field operations office in Raleigh, and Mr. R. T. (Bud) Forrest, the director. He and his staff have been very helpful. I understand that these field operations offices don't have any jurisdiction over reinsurance companies while they are training and selling and adjusting, but do after the fact. I feel that that should be restructured so that their expertise can be better used.

We are getting too many different interpretations of actuarial and sales information between master marketers and reinsurance companies.

I thank you for your time.

Senator COCHRAN. Thank you for the testimony, Mr. Ross. Cliff?

STATEMENT OF CLIFF OUSE, MEMBER, NATIONAL BOARD OF DIRECTORS, COMMUNICATING FOR AGRICULTURE, INC.

Mr. OUSE. Thank you, Mr. Chairman. I appreciate the opportunity to appear before you this morning. I have had the opportunity to work with the crop insurance program through the years, and I am pleased to see it now in its new working stages.

I am representing Communicating for Agriculture and serve on its national board of directors. My farm at Rotasay, Minn., is only 15 miles from CA's national headquarters in Fergus Falls. CA is a young organization having started in 1972.

The past few years, the membership has risen steadily and we now have members in 44 States. In this short time, CA has created a strong communication link with State legislatures and midwestern congressional offices on issues affecting the family farm and small businesses in rural America.

CA's board of directors decided to become involved with the Federal crop insurance program in the fall of 1980. Their feeling was that the new crop insurance program would better serve the family farmer than the disaster program.

The new crop insurance program could be tailored to the individual needs of the family farmers and that the benefits would be overall more consistent.

The disaster program was subject to change with each farm bill while Federal crop insurance is ongoing and more dependable to the family farmer.

Also, the disaster program only covered 6 crops, and FCIC covers 28 crops.

When the CA board decided to secure a master marketing agreement with FCIC in 1981, the board felt it would be prudent to form a subsidiary to act as administrator of the crop insurance program for CA. It formed CA Member Service Corp. a for-profit corporation, and I am pleased to have with me today Pete Risbrudt, who is president of the CA Service Corp. Pete has been involved in administering CA's group health insurance program for the last 7 years and so has an extensive background in insurance administration, as more than 60 percent of the members of CA are currently involved in the program. Pete farms 600 acres near Fergus Falls, Minn. So Pete is really wearing two hats, one hat as president of a master marketing organization representing about $7 million in premiums and another hat as a farmer buying all the crop insurance this year for the first time.

I am going to leave the administration and opinion statements to Pete.

The CA board of directors wishes to speak directly for its farm members as well as all farmers who should consider all-risk crop insurance. To accomplish this, CA is beginning a national dialogue with its farm members, with its all-risk crop insurance policyholders, with its agents, and with farmers at large.

CA feels that everyone has become confused as to what the program can do, what it should do, and more important, what we want it to do. There is a lack of continuity in the program within the FCIC, the agents, and the insurance industry.

The farmer does not know what to expect and who to put his faith in. We all want the farmer to accept the importance of all-risk crop insurance and fully understand the management value of the program.

FCIC, private insurance companies and agents must present the program in unison in order to build continuity into the all-risk crop insurance program.

We all need to have a similar understanding as to rating structures, premium collecting procedures, loss adjustment and claim payment procedures.

We need to communicate with the farmer to learn what levels of coverage he needs and what he can expect in premium costs down the road.

These are just a few of the questions we hope to have answers for by the end of the year. I have attached a column of our recent membership publication describing what CA will be attempting to accomplish in the next few months. We do not have any set answers at this time, but we do know that rural America does not view all-risk crop insurance through rose-colored glasses at this time.

We hope that image can be changed.

Now, I will ask Pete Risbrudt to make a statement.

Senator COCHRAN. You may proceed.

STATEMENT OF PETER E. RISBRUDT, CHIEF EXECUTIVE OFFICER, CA MEMBER SERVICE CORP.

Mr. RISBRUDT. The all-risk crop insurance program has experienced a number of difficulties in 1982. It is easy to criticize any program, because no program is perfect.[1] Crop insurance can be made to work. Crop protection at an affordable price is an equitable way to protect the American farmer.

Farmer participation is the key. To increase farmer participation, FCIC and its marketing units must offer the following: adequate insurance coverage per acre; good claims service; accessibility to farmer-agent education, and efficient administration.

I firmly believe that a farmer will not buy more insurance coverage than he needs, but he should be allowed to buy the insurance coverage he does need, and in today's highly leveraged farm community, fewer and fewer farmers are able to ride out the bad years.

The method of experience rating over the past 10 years at FCIC would be fine, but farmers are constantly upgrading yields. A lot of people believe the individual coverage yield is the answer.

That certainly is an improvement, but it will take a number of years to establish the FCIC program to benefit the farmer.

Also, it is not taking into account farming technology, and provides little help for the farmer who suffered back-to-back crop failures in the last few years.

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[1] See p. 93 for the prepared statement of Mr. Risbrudt.

The best method in my opinion would be for FCIC to establish a formula which adjusts the area average yield to current realistic levels just as your homeowners insurance policy allows you to increase your coverage for inflation.

Whether this coverage is delivered by FCIC through master marketing organizations or private insurance companies makes little difference.

We must lead the farmer toward a risk-management concept. An educated farmer wants to know the cost ratio.

Average yields must be increased for the risk-management concept to be effective.

We should also be concerned about overall FCIC administrative policies which must be more consistent. Changes in administrative policies without notifying marketing units should not be allowed to continue.

The first two fellows, Mr. Ross and Mr. Bracey, addressed the administrative—the administration's—changes in our contract that they proposed yesterday quite well, and so I don't think I will comment on them too favorably much more.

In summary, to make all-risk crop insurance a successful program, we must provide the American farmer with the protection he needs at a cost he can afford.

All-risk crop insurance must be a joint venture between the private sector and the Government to adequately protect the family farm.

Thank you, Mr. Chairman.

Senator COCHRAN. Thank you for your testimony.

There was testimony earlier in the hearings about the inadequacy in expertise of some agents who work for master marketers.

What is your answer to the charge that agents are inadequately trained and aren't capable of handling the work or explaining the policies. Do you have any comments about that?

Mr. ROSS. Yes. I cannot agree with that. In January and February, I conducted nine training sessions and we trained more than 500 agents, and solicitors for the agents.

We have followed this up with one-on-one supervision in the field to be certain that the training sessions did soak in.

We are this week concluding our acres report training which has been going on for several weeks. Our suspension rate in Kansas City is well below 5 percent, and I will stack my agents and their knowledge and my supervisors against anybody.

Senator COCHRAN. Mr. Bracey, what is your observation about that?

Mr. BRACEY. There is some merit to the charge.

Senator COCHRAN. Are there any steps being taken, to your knowledge, to improve that?

Mr. BRACEY. In your area and my area, it is worse, because we didn't have any background whatsoever, and we knew nothing about the crop insurance program. We probably didn't have six policies in Mississippi County, Ark.

The Federal people tried to appoint an agent in this community and another in the south of the county, enough to where it would be worth him getting into the business.

Then everybody thought it was going to be a windfall and they called their Congressman, and we ended up with 17 or 18 agents sitting in a town with 10,000 population. There had been no training, and they are all getting out of it though, because of the complications that have evolved, all of this is in one 12-month period.

I had a contract with the FCIC, and it was terminated because they changed to a different delivery vehicle.

One reason they went into our area so quickly was that they couldn't control the business of numbers of agents. They tell me they have Fuller Brush people selling. I don't know.

Is that just a joke that is told? I know, somebody mentioned about soap salesmen, and I have heard it told to be the truth, that you are marketing, you know, just sales. In our area, we had that happen 20-some-odd years ago.

Senator **Cochran**. Is this a problem that will take care of itself?

Mr. **Bracey**. It will take care of itself.

Senator **Cochran**. Those doing a better job will end up surviving, and those who are in it because it looked like a big deal will drop out when they find out the truth?

Mr. **Bracey**. I think the marketers will agree to that.

Mr. Ross. Mr. Chairman, 6 months ago I had no idea whether the sales were going to be done primarily by independent agents or by lending institutions or by farm-related businesses such as tobacco buyers and fertilizer dealers.

Today, I am happy to anticipate that most of this business will filter to the independent agents that are servicing farmers automobile and other insurance needs.

I feel it is going in that direction. Licensing will help this.

Senator **Cochran**. Peter, do you have any observations?

Mr. **Risbrudt**. I would say 99 percent of the agents we have under contract are also licensed with their State departments, and I have a lot of faith in our agents. We conduct a minimum of three training sessions throughout the year in the different aspects of Federal crop insurance, and like Mr. Ross, our suspension rate is very, very good.

Senator **Cochran**. I had an experience that corroborates what you said. I was recently in a small town in my State for a fish fry, communitywide gathering, and a lot of people were there.

The town's population, I would guess, and it is a county seat, is probably 8,000, and I must have run into 10 people who told me they were in the business of selling crop insurance. I was surprised, all in that one county.

I was surprised because it seemed like an awful lot of folks involved in the same business in that small area. I am interested in your comments about that.

Mr. **Bracey**. It is one thing, if it is all right to talk——

Senator **Cochran**. Sure.

Mr. **Bracey**. And I am not familiar with the procedures, but we go out and sell a man a contract, and we know what that contract is, and I am talking about the ones that choose to continue in it. They will become well qualified. You sell a man a contract and tell him what it will do and they change the contract after you have sold it, and I am anticipating a real flurry of E. & O. claims, you know. If I come out and say I will do something——

Senator COCHRAN. I was going to ask about E. & O. claims, errors and omissions coverage, which normally is something an agent has.

Are your agents under master marketing contracts covered by the same kind of protection?

Mr. ROSS. Most of the independent agents are, but we did make available to agents that did not have itself an E. & O. policy covering just crop hail and all-risk business. Many of them purchased that coverage.

Senator COCHRAN. But it is not required?

Mr. ROSS. In 1983, my contract will require it. I did not require it in 1982.

Senator COCHRAN. In our area of the country in the South, what would you guess the situation is there?

Mr. BRACEY. It could be just about anything there. I want to make clear that we are satisfied with our agents. We have extensive training programs and quality controls set up, and all that, but there are still a lot of people bumping around that probably will not be in it next year.

It is just a sifting down process, and I think any people that are left will have sense enough to have errors and omissions coverage.

Senator COCHRAN. I am not familiar with the arrangement that is being made for adjusting claims under contracts sold by master marketers.

Is there any appreciable difference in the handling of claims under policies that are sold under master marketing contracts and those sold by independent agents, and, if so, what is that difference?

Mr. BRACEY. Federal crop employees adjust our losses—they are adjusted by the Federal Crop Insurance Corporation. The insurance company adjusts their own losses with their own people.

Senator COCHRAN. Those in marketing have no role to play in the adjustments under your arrangement?

Mr. BRACEY. No, sir.

Senator COCHRAN. The change that has been disclosed about the advancement of agents' commissions was something you touched on. Is this consistent with industry practices, to advance commissions only after premiums are collected?

Mr. BRACEY. I don't know that there is a set rule. Some companies will advance you a percentage. We are talking about crop insurance now, and not hail insurance. Not on automobiles or anything else, but crop insurance is a unique animal.

Some companies will advance you a percentage of the premium on a hail insurance policy when you submit them application and a notice on it.

Some companies require the agents to personally guarantee the notes that they take. Some do not.

It is kind of a negotiable thing. You know, if they want to do business bad enough, they make more concessions to the agent, but basically this thing was a different thing. We went out and recruited people and said, "Leave this job, and you can do this and this," and they changed half the facts after the business was written. They said, "Well, we are not going to do it that way."

I don't mind myself, but when you told someone else something, it is a terrible position to be put in.

Mr. Ross. Mr. Chairman, if I may address this, the terminology in the reinsurance contract does not mention commissions. It is administrative reimbursement. And in the 1983 reinsurance contract, they receive 55 percent of that reimbursement in midyear.

Our contract does not allow any reimbursement until after the premiums were paid later in the fall, which is another tough thing for us to swallow, financially, and to operate.

One of the things we talked to Mr. Sims about was that the master marketing contract mentions commissions only different percentages, and we have tried to encourage terminology such as "commissions and administrative costs" or expenses reimbursement.

Some of this should be passed along to the master marketers during the first of the year. I am in FCIC and reinsurance, and I spend just as much money on either and no income on the funds in master marketing.

Senator Cochran. Do any of you have any thoughts on ways to improve FCIC's coverage?

Peter mentioned the problem about not being able to buy as much coverage as needed. Would you suggest a change in the law, or some administrative change by the Corporation to try to accommodate that problem?

Mr. Risbrudt. Yes, I would guess there has to be some type of a formula that could be developed. USDA must have some idea of what the current levels of crop yields are, based on today's yields, not on a 10-year average.

Ten years ago, my father raised 15 bushels per acre soybeans where I live. Today, I raise 30 bushels per acre soybeans. Yet, the average over the 10 years is probably 22½ bushels, if the yields would have increased evenly.

Senator Cochran. And you can insure only a percentage of that?

Mr. Risbrudt. Yes, 75 percent of 22½. The farmer is being asked to coinsure too large a percentage.

Senator Cochran. There was a statement made, I think, by the new Manager of FCIC that if a farmer could prove that his yield was higher, and have proof and evidence of it, it was my understanding that this could be accepted.

Has that been your experience in practice, that farmers have been able to improve those numbers?

Mr. Risbrudt. That is a new program that I am not aware of.

Mr. Bracey. May I speak to that?

Senator Cochran. Sure.

Mr. Bracey. You can only insure 75 percent of that. If you had 40 bushels proven, you could insure only 30 bushels, or perhaps only 25 under their program.

But there is no margin there. If the price of commodities stays the same and he has a good year, he may not make, you know, the profit on it.

If you take just 25 percent off of his yield, even if you got the average up, he is broke. You know——

Senator Cochran. That corroborates with what Mr. Miesbach said.

Mr. Bracey. All we say is, "We give it to you and you go broke slower." That is all.

Mr. Ross. The 10 years average is low. You have had advancement in the last 10 years, with seeds, mechanical devices and so forth. When you go back 10 years you pick up old technology and it doesn't help the IYC yield situation.

Senator Cochran. All of you have been very helpful to me and the committee by being here and offering your observations and comments.

We appreciate your being here. Thank you for it.

Our last witness this morning is Mr. William Prichard from Louisville, Ga. We extend a welcome to you, Mr. Prichard. We are glad to have you here to participate in our hearing.

We have a statement with some attachments that you kindly furnished to the committee. We want to thank you for that, and we will make it all part of the record and you proceed as you wish.

We just got a signal from the floor, but we can possibly complete your statement before I go, and I will come back for your questioning, if you can stay.

STATEMENT OF WILLIAM PRICHARD, LOUISVILLE, GA.

Mr. Prichard. I can stay.

Being in here with all the insurance folks, I am kind of like David with the Phillistines.

But we will go and proceed.

I am going to be in an adversary position. I am a farmer in Georgia, and I think I have perhaps a lot of respect of people, not only farmers in Georgia, but in other States in the Union, including your State of Mississippi, and I have on occasion been accused of being a magnet for confusion.

But this morning I would like to make a brief statement.

We have in the United States, of course, the ASCS offices in all counties. These offices have the maps, the farm numbers, the production records and the general expertise in handling Government farm programs for almost 50 years.

I believe that the ASCS has the respect and trust of most farmers, and I think that would be borne out if you go out and ask them.

It is just good commonsense to use an established system to handle the crop insurance program that hopefully will be of help in American agriculture's survival which is in serious jeopardy at the present time.

The most cost-efficient system is necessary from the standpoint of farmers and taxpayers. FCIC's own figures and estimates show ASCS doing the job at the least cost per premium dollar. Why not let ASCS compete on a cost basis?

The FCIC files have become scattered in insurance agents' offices at present, instead of being held in ASCS offices as a matter of safety and convenience to farmers.

Mr. Sprague, Manager of FCIC, in a letter to me dated May 11, 1982, had the following two paragraphs in reference to ASCS involvement with Federal crop insurance program:

> In addition, the ASCS is playing an important role in the expansion of the Federal crop insurance program. ASCS county offices will perform public information functions, gather yield and acreage data, assist in implementing the prevented

planting insurance program and the individual yield coverage program and in certain areas of the country, serve as sales and service points.

To start with, there is very little ASCS can do in the way of information to farmers except to reproduce canned data submitted by FCIC and have it printed in newspapers and newsletters. ASCS is not even allowed to have actuarial tables in their offices.

Farmers want to know how much coverage they can get, how much it will cost, what options are available and how coverages are established.

This information is not being explained to them by most agents and ASCS does not have the information available to explain these items.

The prevented planting program is now offered in only a few pilot counties throughout the Nation, and there are very few ASCS offices acting as sales and service points.

The only true function that ASCS has nationwide at present, is the individual yield coverage program, and this must originate with the agent if he elects to explain it to the farmer.

Mr. Sprague, in the above-mentioned letter, also mentions the doubling of participation in 1981 over 1980 in crop insurance giving the reason as largely the result of private agent delivery system.

What really doubled the participation was not private agents but the increase in counties served, more different crops in the program, more farmer awareness of crop insurance, and mandatory compliance by borrowers from Farmers Home Administration.

And that was mandatory up until just recently. One of your colleagues in Mississippi, of course, stopped that.

ASCS has the expertise to give oversight to the whole program which it is not getting at present. ASCS could supervise the loss adjuster program on an hourly and mileage work basis instead of the gross overcompensation we have now.

Then, too, ASCS could help prevent farmer scamming of the program—that does happen sometime. If you don't believe it, we will take you and show you instances of it.

Farmers were led to believe that Federal crop insurance was designed and committed to take some of the risk out of the riskiest business in the United States at an affordable cost.

If the costs to deliver the system are not realistic and efficient, the burden and economic squeeze on agriculture worsens the already precarious situation of financial insolvency.

It is my belief that the crop insurance program can work, be efficient and alleviate some of agriculture's economic problems but the delivery system will have to be altered.

I won't go into the attachments unless we have questions on them.[1]

Senator COCHRAN. There will be questions.

If you will excuse me, I will go over and make this vote and come right back.

The committee will stand in recess for 10 minutes.

[Brief recess to vote.]

Senator COCHRAN. The subcommittee will please come to order.

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[1] See p. 96 for the material supplied by Mr. Prichard.

Mr. Prichard, I want to thank you for your statement and for your interest in these hearings, and taking your time to be with us to share some of your thoughts and concerns about how to improve and alter this program so that it is more responsive to the needs of America's farmers.

I want to congratulate you. Somebody put on my desk here a copy of the Progressive Farmer, a page out of the February 1982 edition, where you were named the 1981 Man of the Year in Service to Georgia Agriculture.

I want to congratulate you.

Mr. PRICHARD. Thank you. But I didn't put that in there.

[Laughter.]

Senator COCHRAN. I understand that, but I will put that in the record.

Mr. PRICHARD. I appreciate that. After all, I will be 69 years old next month.

Senator COCHRAN. Historical buffs will know who you are when they read this record, if they ever do.

But there has been a great deal of interest in trying to come up with the right kind of balance between the involvement of ASCS, the existing structure of USDA, and marketing and adjustment of claims by the private sector.

I am glad to have your thoughts on that.

You observed that in spite of Mr. Sprague's assurances about involvement of ASCS in different aspects of this insurance program, the fact of the matter is that only in determination of yield was ASCS really active?

Mr. PRICHARD. For 1982, they were—for all practical intents and purposes—kicked out of the program.

Senator COCHRAN. Somebody suggested at hearings that I recall attending in Memphis, Tenn., last year that ASCS was not written into the law because they opposed so strenuously the enactment of the Federal Crop Insurance Act and fought it real hard, and that it was assumed that they wouldn't work in a spirit of cooperation in trying to make a program work.

What is your reaction to that?

Mr. PRICHARD. My reaction is to that, Mr. Chairman, I have been informed that the upper hierarchy here in Washington defeated that. The grassroots ASCS offices were handling crop insurance. I believe that is correct.

Senator COCHRAN. That is an interesting observation. I haven't heard that before.

So you don't think there would be a problem because of prior opposition from ASCS?

Mr. PRICHARD. No.

Senator COCHRAN. That could be set aside and a genuine effort made to make the program work?

Mr. PRICHARD. That is what I think. You have to go back. From a historical standpoint, you have had many different programs under ASCS and compliance has been excellent. It took education, but there has been excellent compliance over the years.

I think that is one of the reasons is that they have the confidence and trust of most of the farmers. The farmers go to ASCS to find out about it. At least in the Southeast they do.

Senator **Cochran**. In my State, just from personal experience, ASCS people are the highest caliber in every county in the State.

Members of the State and county committees are well respected, and this is a tradition. There is a tradition of respect and trust.

Mr. **Prichard**. I don't have anything against the insurance industry. I think they are necessary. I have paid insurance premiums all my life, and I guess I will continue to do so.

What I am saying is that agriculture is in one of the most precarious financial situations it has been in since 1933 and 1934. Perhaps it could get worse than that. If you boil down the projected income, after taking out inflation, it is worse now in projections than it was in 1933 and 1934. That is pretty rough.

I remember those days real well.

What I am saying is that the most cost-efficient way of handling the Federal crop insurance is the best way to go, and you have the expertise out there to go and the competence, in ASCS, and they can take it and go with it.

The compliance is important. I see a scam, and ASCS knows it is being scammed, and you will get better compliance.

I never saw a Federal program in my life that wasn't abused. You know that, too. Somebody will abuse it. But you can't put everyone in this category because there is a rotten apple in the barrel.

We need Federal crop insurance, and I think farmers in general will support Federal crop insurance providing they get up enough money or make enough money to pay the premiums, and that is going to be hard to do.

You have to have a low cost premium for a while anyway, until we get out of the economic situation we are in at the present time.

If you don't, I think American agriculture is going to belly-up, and the American people are going to be sorry that happens.

Senator **Cochran**. You have been good to be here with us, and your tables that support your observations will be included in the record, also.

This concludes 2 days of hearings that we have conducted.

I think we can safely say this has been a very informative experience for the committee. There has been overwhelming support expressed for the need for some kind of disaster assistance to farmers who face the perils of nature when trying to produce crops for consumers in this country and for export abroad.

There has been some disagreement about the appropriate method by which this protection is to be made available, but generally there is support for the concept of crop insurance, I think we have found, at least if it can be made economically attractive for the farmers.

There is no disagreement that strong participation by farmers is essential not only from the standpoint of providing adequate protection to the farmers, but for making the program actuarily sound.

The cost to the Government must be an item of concern, and these costs must be kept under control.

I am convinced that the administration is committed to making the program work, to improve it, and to make it work in a way that is consistent with congressional intent as expressed in the act creating the program.

This is not to say that farmers, the insurance industry, agents, the ASCS and others,will not have to continue to seek ways to improve the program, but I believe this hearing has gone a long way in highlighting ways in which improvements can be made.

I want to commend all the witnesses who have appeared and testified for their candid observations and criticisms and constructive suggestions that we have heard.

I look forward to continuing to work with all of you in the future as we work to have a sound, effective and efficient crop insurance program which meets the needs of the farmers of this country and is fair to the Nation's taxpayers and consumers.

As I mentioned earlier, the hearing record will remain open for a period of 30 days to receive any additional statements or comments that anyone would like to have made a part of the record.

With that, the hearings are adjourned. Thank you.

[Whereupon, at 12:55 p.m., the subcommittee adjourned, subject to the call of the Chair.].

APPENDIX

STATEMENT OF HON. PAULA HAWKINS, A U.S. SENATOR FROM FLORIDA

Good Morning. I want to thank Senator Cochran for holding these hearings on the federal crop insurance program. A program as important as this one deserves the close attention of the Congress. This is particularly true given the recent expansion of responsibilities of the Federal Crop Insurance Corporation. When any program grows rapidly, we need to expect the unexpected. But growing pains are no reason to give up on a program that will help the agricultural community and taxpayers.

I am particularly interested in hearing what Senator Bentsen and Members of the House believe to be wrong with the program. Coming from the nation's twelfth largest agricultural producing state, I know the need for insurance protection for high risk crops. In fact, citrus produce is one of the highest risk agricultural products in the country.

I am also very interested in hearing the views of the members of the agricultural finance panel that will appear before us today.

I am hopeful that crop insurance can also be utilized as a tool to protect the taxpayer from loan losses by Farmers Home Administration borrowers. I believe that once this program is working efficiently it can insure borrowers of public funds against loss, thereby insuring the taxpayer from loss as well. Because of this I am supporting a measure which authorizes the Department of Agriculture to require FmHA borrowers to purchase crop insurance to help secure their loans when it is available.

For all these reasons, I am thankful to Senator Cochran for providing this forum to review the progress that has been made implementing this important program.

STATEMENT OF HON. KENT HANCE, A REPRESENTATIVE IN CONGRESS FROM THE 19TH DISTRICT OF TEXAS

Thank you, Mr. Chairman.

I would like to address three general areas of the Federal Crop Insurance program and deal with specific problems and possible solutions within each area.

The first would be the current cancellation and planting dates set by the FCIC. Today, wheat farmers have a cancellation date of April 30th. Yet the farmer at that date has not harvested the current year's crop and how can he possibly make a reasonable business decision on insuring next year's crop before he harvests his current crop?

Cotton farmers, on the other hand, have until December 31st to decide on cancellation, well after their harvest. I would suggest and urge the subcommittee to set all cancellation dates after harvest in order to give the farmer the benefit of being able to make the cancellation decision on a fair and equitable basis.

By the same token, crop insurance sale date deadlines are scheduled too soon. Cotton farmers in my district are required to make that decision before they plant. Like the cancellation dates mentioned earlier, the farmer is forced to make decisions at the wrong time of the year, and as we all know, no one date would be fair to all farmers. What is fair for the farmers of West Texas isn't necessarily fair for the Kansas farmer of the Georgia farmer. But by leaving the sales deadline for crop insurance to a county committee, we could easily alleviate the current situation.

The FCIC regulations are literally littered with similar stipulations that often work against the farmer and makes one wonder if we are insuring the success of the crop, or insuring the flow of paperwork to the FCIC.

Specifically, I refer to the FCIC practice or requiring farmers to report 15 days prior to harvest whether that harvest will produce a crop that will require an insurance payment. The cotton farmer, for example, must predict his yield per acre. Fifteen days may seem reasonable to a bureaucrat but to the cotton farmer facing harvest, 15 days can be a lifetime.

The weather dictates that harvest decision, not the 15-day rule by the FCIC. If it stays hot, he will harvest his cotton sooner than 15 days. If it doesn't and he waits, he's at the mercy of mother nature.

The point is, if any farmer in my district can accurately predict his harvest 15 days before the fact, he could make a lot more money in Las Vegas than he could on the farm. That kind of prediction would be like you or I sitting here today and accurately predicting not only which team will win the super bowl next year, but by what score and who'll score the points and in what quarter.

The 15-day rule should be abolished. The farmer will collect or not collect crop insurance based on his harvest and his 5-year average for that crop in that piece of land as set by the FCIC.

Which brings us to another problem. Currently the 5-year average is computed by the FCIC under a system that unfairly penalizes the farmer. If, for example, a farmer's crop is destroyed for 5 consecutive years, his premium adjustment factor increases significantly.

If during that same 5-year period he has 3 record years and 2 disaster years, the zero years are averaged in with the good years and the farmer's FCIC guarantees decline. The FCIC is getting him coming and going. If he has a good year, he doesn't need crop insurance. But when he has a bad year, the FCIC will not insure the crop at its full potential.

I'm sure the FCIC looks at that situation much like insurance companies view a driver with a terrible record. He's a high-risk and the premium must be raised. But the driver has control over his automobile. The farmer has absolutely no control over the weather.

I feel the FCIC's premium adjustment factor should be more fair and equitable. It should not factor in the disaster years and give the farmer an honest premium and, in return, provide the farmer honest protection from factors over which he has no control.

The last point I would like to raise, Mr. Chairman, concerns in my opinion the most ludicrous of all FCIC regulations.

My cotton farmers must sign up for crop insurance by December 31st and the deadline for planting is June first. Yet, if on June first west Texas is in the midst of a dry spell, the farmers are encouraged to go ahead and plant in order to collect the crop insurance they have already opted for even though the farmer knows this is a bad conservation practice. By planting when it's dry, the first gust of wind will take his topsoil into the next county.

The farmer knows this when he plants, so he plants a lesser grade of seed and tries to spend as little as possible to qualify for the crop insurance coverage he's already signed up for.

This, in my opinion, is the best example of crop insurance practices of the bureaucrat written by the bureaucrat, and for the bureaucrat.

The farmer is encouraged to practice bad conservation and operate outside the spirit of the law.

Federal Crop Insurance regulations should be written with the farmer, not the bureaucrat, in mind.

I appreciate, Mr. Chairman, the opportunity to address this distinguished subcommittee and would hope the testimony you have and will hear today will be seriously considered when you and your colleagues proceed on this matter.

Thank you.

[The following paper was submitted by Mr. Rutledge. See p. 47 for the oral testimony of Mr. Rutledge:]

Re Proposal to remove hail and fire coverage from the FCIC all-risk program.

To: Hon. Frank W. Naylor, Jr., Undersecretary of Agriculture for Small Community and Rural Development, Hon. Merritt W. Sprague, Acting Chairman, Federal Crop Insurance Corporation.

From: Crop Insurance Research Bureau (CIRB); National Association of Mutual Insurance Companies (NAMIC); and National Association of Independent Insurers (NAII).

The CIRB, NAMIC and NAII are national voluntary property/casualty insurance trade associations whose combined memberships wrote more than 40 percent of the crop insurance in effect in the United States in 1980. This translates to a premium volume of $156.5 million, making the matter now under consideration a major interest to us.

Participation has increased in the FCIC program since the private sector has become actively involved. We see, as expressed by FCIC officials, a growing demand by the farmer to have all risk protection available to stabilize financial conditions and to serve as protection for the lender of production capital.

However, we are convinced, the intent of the 96th Congress, as expressed in the Federal Crop Insurance Act of 1980, is not being met and by design the private insurance company is being exploited by special interest groups and the Federal bureaucracy. It is predictable that the improper expansion of the all risk crop insurance program will be at the ultimate expense of the farmer, taxpayer, the current administration, and the insurance industry. It is essential the 97th Congress take immediate action to revamp the all risk insurance program to assure equitable and efficient delivery of a needed service to the American Farmer.

BACKGROUND

The crop hail insurance industry has served the American Farmer for over 100 years. Protection from the perils of hail and fire has been available for levels up to 100 percent of the crop value. For example, in 1981, the members of the Crop Insurance Research Bureau (CIRB) provided $5.3 billion of hail and fire liability protection and reimbursed the farmer for $115.4 million of losses to growing crops. The need for this crop protection continues to grow but the mechanism for the delivery of this crop hail and the all risk insurance is being challenged by the Federal government. Repeatedly, we hear the threat of turning the all risk program over to ASCS and increasing the level of coverage to satisfy lending institutions. If these two suggestions are accepted, the need for private hail insurance companies is eliminated. The insurance industry has painful memories of the Flood Insurance Program when, after the industry committed capital and personnel and delivering the coverage, a new Administration revoked the agreement and assumed the role of the insurance company. The current Administration is encouraging the insurance industry to, once again, administer the Flood Insurance Program. At risk is thousands of jobs and a key segment of the free enterprise system. But, of significant importance is the expansion of the Federal government into the taxpaying private enterprise system. It seems, in these times of federal deficits, high unemployment and low productivity, the government should be taking steps to reverse the trend of bureaucratic involvement and costs.

OBJECTIVES

It is our belief and understanding that the Congress and the current Administration have established the following objectives.

(1) To provide insurance protection to the farmers to avoid financial disaster to the farm economy.

(2) This protection to be in the form of insurance with corresponding premiums and if necessary, financial assistance to the farmer if unable to pay the appropriate cost of the liability exposure.

(3) Remove the expensive involvement of government in those areas best or currently served by private industry.

(4) Reduce the burdens of the taxpayer and the federal budget.

(5) Increasing the opportunities for additional tax revenue from private industry through increased productivity.

RECOMMENDATIONS

(1) Remove hail and fire insurance from the FCIC Act of 1980.

Reasons:

(*a*) Eliminate government from direct competition with private insurance companies.

(*b*) The private sector provides hail and fire insurance and recognizes this exposure is the largest single peril the majority of farmers are exposed to consistently.

(*c*) Insurance is written to the total value of the crop and losses paid from first dollar of loss.

(*d*) The farmer is penalized if he opts the hail out of the FCIC coverages. (FCIC coverage is reduced directly proportionate to the hail loss even though the hail loss is less than the FCIC deductible).

(*e*) As pressures mount from ASCS to administer the all risk program and from lending institutions to increase the levels of coverages, the need for private hail insurance will be eliminated, and increased federal subsidies necessary.

(*f*) The hail opt out provision in the 1980 Act has failed to work as Congress intended, reported by the GAO. (.6 of 1 percent opt out the hail).

(*g*) Enable the insurance industry to assist the administration in developing an appropriate alternative without fear of designing its own demise.

(2) Design an actuarily sound federal insurance program to protect the farmers crop.

Federal assistance twofold:

(*a*) Act as a catastrophic reinsurer.

(*b*) Assist the financially distressed farmer with a direct subsidy or tax credit for an appropriate share of the premium.

Reasons:

(*a*) To correct the numerous inquities of the current all risk program and recognize differences in yields and levels of risk.

(*b*) A tax credit or direct subsidy would permit controlled federal assistance without the need for a federal bureaucracy.

(*c*) Actuariarlly sound rates would eliminate expensive indirect subsidies. (Presently, the FCIC rates account only for losses. Overhead and administrative expenses are funded by the taypayers).

(3) Utilize the private insurance industry to implement and manage the federal insurance program with annual reports to the Secretary of Agricuture. Private industry can provide the basic coverage capacity with Federal assistance in catastrophic years.

Reasons:

(*a*) The insurance industry is capable of providing the insurance coverages and management function to the insuring public.

(*b*) The Federal Government is needed to provide catastrophe protection in disaster years. The insurance industry does not have sufficient capacity to handle the catastrophic exposure. This mechanism has functioned extremely well for the protection against nuclear accidents.

(*c*) Industry assumption of this program will

(1) Reduce government costs.

(2) Increase tax revenues.

(3) Aid in reducing unemployment levels.

(4) It is our sincere belief that the federal crop insurance program would be strengthened by deleting hail and fire insurance coverage from the policies, for the following reasons:

(*a*) Deletion of hail and fire insurance coverages is consistent with President Reagan's philosophy that government should not do what the private sector can do better. Private insurance companies have been offering hail and fire insurance in the United States for nearly 100 years. One of the greatest strengths of President Reagan's philosophy of government in his view that the federal government should not undertake activities that can be done more efficiently and effectively in the private sector.

(*b*) Actuarial analysis shows that FCIC premiums could be reduced by more than the hail and fire loss ratio, therefore offering producers cheaper multiperil coverage. Only about 11 percent of the FCIC losses result from hail and fire damage. generally the credit given for the hail opt out is greater than the loss experience. Thus, the premium subsidy, and therefore, the cost to the taxpayer could be reduced by more than the extent of anticipated losses from hail and fire damage. This means, under the current system, lower premiums for producers and a reduction in the cost of the program to the taxpayers.

(*c*) Deletion of hail and fire coverage gives private insurance companies a greater incentive to participate in the FCIC program, without fear of being forced out of business. We believe that many private insurance companies who are now extremely reluctant to participate in the FCIC program would be willing to do so with hail and fire coverage deleted.

(*d*) Deletion of the hail and fire perils would eliminate duplicate coverage which increases producer costs. In our experience, many producers are buying both private hail and fire insurance policies and the FCIC policy. This is wasteful and unnecessary, and should be eliminated.

SUMMARY

Our organizations are committed to preserving our members future ability to serve the insuring public. We support the goals of Congress and the current Administration to reduce the role of government and the return of a stable economy. We stand ready to assist in the development and implementation of these goals.

[The following material was submitted by Mr. Neville. See p. 50 for the oral testimony of Mr. Neville.]

[Exhibit A]

FARM INSURANCE DEVELOPMENTS

Due to the importance of farm insurance to so many of our members, President Harold Tucker, has recreated a Farm Insurance Committee, with Norman Everett of Hamilton serving as Chairman. An organizational meeting was held Tuesday, October 6, in order to establish goals and objectives for 1982. Of particular concern to the committee was the loss adjustment procedures currently in use for crop hail insurance and after careful consideration, they voted unanimously to puruse the following changes:

1. Reduce the waiting period prior to the adjustment of any loss from 8 days to 5 days.
2. Eliminate the fixed dates for the beginning of loss adjustments and amend the policy to provide that loss adjustments will begin once the crop is laid by.
3. Amend the loss adjustment procedures to reestablish a 20 plant count as the basis for settlement, by counting the 1st, 5th, 10th, 15th and 20th plant.

The committee was also advised that consideration was being given to a new application, which among other things would require the farmer to furnish a map for each field of tobacco insured. The consensus was that at the time the application is completed, such information is not readily available and that the information being furnished presently was in fact sufficient to identify the fields being insured. Therefore, the committee was of the opinion that this requirement places an unusual burden on farmers and is unnecessary.

There is strength in numbers and the committee urges all interested agents to support their efforts to accomplish these changes before the 1982 growing season. Where possible, get your local association to also go on record in favor of these changes.

Another matter of great interest to all independent agents in the farm area is their future involvement with Federal Crop Insurance. An FCIC official advised that on or about Dec. 1, 1981, FCIC will inform all insured farmers that local FCIC sales offices will close December 31, 1981, and all farmers must assign his file to an insurance agent prior to that date. He advised that, in the future, an agent has three possible contracts with FCIC.

1. He can become an FCIC agent direct.
2. He can represent a company reinsured by FCIC.
3. He can represent a master marketer who offers a FCIC's sales & service contract, higher commissions and no responsibility for payment of the premium.

The committee concluded that the third option was preferable and they were advised that several master marketers were actively soliciting agents throughout N.C. Independent agents will face competition for this business from PCA offices since they can legally procure this protection for their borrowers. Also, N.C. Farm Bureau will be soliciting this insurance for their members.

Other important items which the committee discussed and acted upon were:

1. Presently there is no coverage for bulk tobacco barn losses occurring as a result of power shortages. The consensus was that the policy should be changed to afford protection for such losses.
2. Under the Homeowner program replacement cost insurance on contents is available and brick-veneer dwellings are rated as masonry. The committee feels farm dwellings should be eligible for the same benefits.
3. The jurisdictional dispute whereby a farm dwelling and other farm buildings must now be insured under separate policies needs to be resolved. Otherwise, inadequate insurance and uninsured losses are bound to occur.

[Exhibit B]

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CROP INSURANCE

NAMIC's efforts in the area of crop insurance are closely coordinated with those of CIRB so as to maximize that impact of both organizations on policies of the Department of Agriculture which directly affect those members engaged in writing insurance on growing crops. Under the new federal all-risk insurance program, two types of private involvement are possible. The first is an insurance company which reinsures all-risk crop coverages with the federal government, and the other is a "master marketer" who acts as an agent for the government and bears no risk whatsoever. Ultimately it is the goal of all concerned to have the private sector act as a risk bearer to the extent that the so-called master marketer will disappear from the scene. Recent rules promulgated by the Federal Crop Insurance Corporation, however, give an unfair advantage to the master marketer over the risk bearer in that they relieve the master marketer of any responsibility for payment of premium which he cannot collect, but do not extend the same protection to the risk bearer. The net effect is an unfair advantage accruing to the master marketer in the competition for local agents.

In view of this, the Legislative Steering Committee recommends, subject to coordination with CIRB, that all NAMIC members be contacted and urged to write Federal Crop Insurance Corporation officials calling for equity in the marketing of crop coverages, specifically urging that the Federal Crop Insurance Corporation require that all agents selling crop insurance be subject to state regulation and licensing, and that special guarantees of premium collection for those engaged in the master marketing arrangement be removed.

Upon motion by Mr. Skupa, seconded by Mr. Inglis, the Executive Committee accepted the Legislative Steering Committee recommendation.

DATA BASE FILING FEES

Mr. Spolyar reviewed a series of events which surround the issuance of invoices by the NAIC in connection with its statistical reporting service. The controversy generated by this issue in 1981 had seemingly been resolved in June of last year at the Detroit convention of NAIC, wherein representatives of our industry, including Mr. Spolyar, had met with NAIC officials, essentially to ask for an accounting of these funds. The issue was resurrected by changes in staff at NAIC headquarters and the appearance in January of 1982 of invoices which were surprisingly high for many companies.

A meeting was held in Chicago between the NAIC leadership and representatives of the four major insurance company trade associations to uncover, specifically, the intention of the NAIC with regard to this Statistical Reporting Service and the fees being charged for it. Prior to the meeting, an ACTION CALL had been sent to NAMIC members urging them to await further word before remitting the payment requested by NAIC. Cooperation was good and payments slowed.

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STATEMENT OF PETER E. RISBRUDT, CHIEF EXECUTIVE OFFICER, CA MEMBER SERVICE CORP.

Mr. Chairman, members of the subcommittee, the all Risk Crop Insurance program has experienced a number of difficulties in 1982. It is easy to criticize any program, because no program is perfect. But All Risk Crop Insurance can work—it should be made to work. Adequate crop insurance protection, at an affordable price, is an equitable way for preserving and protecting the American family farm system from farming's natural risks.

ARCI will not be judged a success until its coverage protects a large percentage of the farming sector, both as a means for replacing the disaster program and as a means of spreading the risk for more equitable premiums. Farmer participation is the key.

To increase farmer participation, FCIC and its marketing units must offer the following:

1. Adequate Insurance Coverage per Acre.
2. Good Claim Service.
3. Accessibility.
4. Farmer (and Agent) Education.
5. Efficient Administration.

The experience of CA Member Service Corp., in marketing crop insurance in 1982, indicates the farmer was unable to purchase adequate insurance protection. For many, the "production guarantee per acre" offered is too low, and does not provide realistic levels of coverage.

Using my own farming situation as an example, the following chart lists by crop the average yield per acre established for my farm by FCIC, by ASCS, and by my personal records:

Crop	Years raised	Area average yield per acre, FCIC (bushels)	Farm average yield per acre, ASCS (bushels)	Average yield per acre, personal records (bushels)
Barley	6	35.0	42.0	55.8
Wheat	6	22.0	33.0	31.3
Corn	6	58.0	78.0	81.0
Soybeans	4	15.4	N/A	28.0
Hay	6	([1])	([1])	([1])

[1] Coverage not available.

As you can see, there are significant differences in average yields established by FCIC, ASCS, and myself. It's difficult enough, as a beginning farmer, generating the cash flow to operate a profitable farming operation on the yields I have experienced. Had my yields been similar to FCIC's "area average yield", I would likely have been out of farming three years ago.

I firmly believe that a farmer will not buy more insurance coverage that he needs, but he should be allowed to buy the insurance coverage he does need. FCIC states its Area Average Yield is developed from actual crop yield experience over the past ten years. That method would be fine if farm technology was stagnated and yields were remaining constant. However, improved farming methods and technology are constantly upgrading yields.

Let me use an analogy, assume you built a new home ten years ago, and its building cost was $50,000. The value of your home has steadily risen over the years and today its replacement cost is $100,000. The average replacement cost over the past ten years would be $75,000. Using FCIC's method, the maximum you could insure your home for would be 75 percent of the average replacement cost (75 percent × $75,000.00 = $56,250.00) how many people would purchase their homeowner's coverage from FCIC? We are asking the ARCI policyholder to coinsure too large a percent of his coverage.

A number of people claim the individual yield coverage plan (IYCP) is the answer. It certainly is an improvement, but it will take a number of years to establish the IYC program before it will truly benefit the farmer. Also, it still does not take into account improved farming methods and technology. Further, it provides little help for the farmer who has suffered back-to-back crop failures in recent years. Another factor is that IYCP places a burden on the farmer to keep additional records.

The best method would be for FCIC to establish a formula which adjusts the area average yield to current, realistic levels, just as your homeowers insurance company allows you to increase your coverage for inflation.

CAMSC is in complete agreement with the level elections of 50 percent, 65 percent, and 75 percent of area average yields. It is extremely important to the future of the family farm to retain some of the risk in farming. We also agree with offering three levels of price elections for each crop, as it provides more versatility for the policyholder to choose a premium he can afford.

I want to make just a brief statement on good claim service. Anyone buying insurance does so for one reason only, and that is for protection in the event of a loss. Service on claims must be given special priority as a policyholder has the right to expect the quick processing of a claim and receipt of a settlement check.

Expanding the marketing of All Risk Crop Insurance to the private sector provides farmers with easy access to the purchase of this protection. The farmer can now purchase ARCI from an agent he has learned to trust in the handling of his insurance needs. Most of our agents are main street casualty agencies. Whether the coverage is delivered by FCIC through its master marketing agreements, or by private insurance companies through a reinsurance agreement with FCIC, makes little difference. The important point here is that overall administrative and marketing costs be the same. To provide financial incentives that increase the cost of one method of delivering the program over the other is not in the best interest of the U.S. taxpayer.

Our experience indicates that crop insurance has previously been sold, for the most part, on a farmer's emotions. ARCI marketed as a "risk management" tool has had little success. It is all to easy to scare a farmer into buying crop insurance. Unfortunately, you must continue to scare him for his renewal of the coverage. When scared into buying crop insurance, a farmer is conditioned to look for a payoff. If he doesn't get it after a few tries, he will discontinue to purchase the coverage. Favorable crop prospects can also reduce participation when the coverage is sold on emotions.

We must lead the farmer toward a "risk management" concept of crop insurance protection. The mature and educated farmer wants to know the cost/benefit ratios of crop insurance, and how he can employ "risk management" to hedge and expand. Area average yields must be increased for the "risk management" concept to be effective.

We have found that FCIC's advertising campaign has made farmers aware of the ARCI program, but they do not understand it. They have misconceptions about actual program costs, benefits, and the flexibility features of the program. Also, few farmers yet understand the changes to the disaster program and the implications for their own operations.

Agents also have many misconceptions about All Risk Crop Insurance costs and benefits. They may often compare All Risk Crop Insurance to hail insurance, thus creating a false and negative image of the product. It is important for all agents to gain an understanding of the program.

Our experience in 1982 proves that crop insurance must be sold to the farmer. ARCI will never reach its needed participation if it is marketed by "order-takers" (people who expect the farmer to come to them). We must use honest, aggressive agents to market the program.

Administration of the All Risk Crop Insurance program by FCIC has reached inflexibile proportions. We realize the administrative problems of any program in the stages of rapid expansion. However, insurance is a service, regardless of whether it is marketed by the public or private sector. All Risk Crop Insurance is a service to the farmer, and he must be treated with utmost respect when servicing the policy, adjusting a claim for benefits, and billing for premium due.

As an administrator of insurance programs for the past ten years, I will be the first to defend and stress the need for adequate information to provide service to the policyholder. The agent is a natural link in the insurance cycle for obtaining adequate information on a policyholder but, to burden the agent with requests for unnecessary information takes his eye off his primary job—which is selling. Requests for unnecessary information by FCIC also creates suspension and delay of important changes affecting the policyholder and his coverage.

Attached are some examples of, in my opinion, unnecessary suspensions:

The first suspension relates to a contract change which increases the price election on corn to $3.00 per bushel. This contract change was suspended because the signature in box 32 did not match the name indicated on line 2. Note the person is the executor of the estate but signed as the agent. It is obvious the two are the same. See exhibit A.[1]

The second suspension relates to a contract change which increases the price election on corn to $3.00 per bushel. It was suspended because the social security number was omitted (FCIC personnel have indicated that social security numbers are only necessary on new applications and "successor in interest" changes). This contract change simply increases the price election. See exhibit B.

The third suspension relates to an agent transferring his policyholder contracts from his 1981 FCIC agent code to CAMSC's Master Marketing code. This transfer was suspended because FCIC required an agent's code in each box to match with the contract number. (FCIC does not accept ditto marks, etc.). See exhibit C.

The fourth example is not a suspension. During February and March, 1982, FCIC mailed all correspondence under CA's Master Marketing code to our agent in Detroit Lakes, Minnesota. Efforts to correct this simply resulted in our correspondence being mailed to Adair, Iowa. Finally, on April 6, 1982, the Des Moines Regional Office sent a memo to Kansas City which changed our agency code to the correct address in Fergus Falls, Minnesota. These address errors created serious delays in important policyholder information to our agents in our six-state marketing area.

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[1] Exhibits A, B, C, and D are retained in Committee files.

See exhibit D.

There are examples of problems we are incurring and represent a large number of similar suspensions and delays to the files of crop insurance policyholders. Petty suspensions and delays are unnecessary, and create an atmosphere not conducive to sales and renewal of policyholder contracts. As one of our agents in Illinois so aptly put it, "Who am I servicing, the policyholder, or FCIC?"

We should also be concerned about overall FCIC administrative policies, which must be more consistent. Changes in administrative policies, without notifying marketing units, should not be allowed to continue.

In summary, to make All Risk Crop Insurance a successful program we must provide the American farmer with the protection he needs, at a cost he can afford. All Risk Crop Insurance must be a joint venture between the private sector and the Federal government to adequately protect the family farmer.

Thank you for this opportunity to present testimony in support of All Risk Crop Insurance. I will be happy to answer any questions that you may have.

Additional information regarding Communicating for Agriculture, Inc. can be found in the booklet, "Working for Rural America", which accompanies this testimony.

Additional information regarding CA Member Service Corp. can be found in its monthly publication, "All Risk Report", which accompanies this testimony.

[The following material was submitted by Mr. Prichard. See p. 83 for the oral testimony of Mr. Prichard.]

FCIC PREMIUMS, COMMISSIONS, AND OTHER CRITERIA

1981.—Business $373 million total premium.

1982.—Projected $650 million total premium (includes new business & carryover business).

1982.—Commission rates on premium income.

Master marketing new business 18 percent carryover 13 percent.

Reinsurance new business 27 percent carryover 22 percent.

Estimated commissions for 1982 for master marketing if all sales were under it—$98.7 million.

Reinsurance estimate (if all sales were under it), $199 million.

Proposed 1983 Commission rates for master marketing: New 20 percent carryover 15 percent.

1981.—Total Georgia FCIC premiums—$18,348,214.

Estimated Commissions—$2.4 million.

1981.—Jefferson County, Georgia—Total premiums $632,447.

Files serviced by ASCS had premiums of $560,894.

Of these ASCS wrote contracts totaling $161,595.

Actual cost of this work to handle these files and write $161,597 of premium contracts from October, 1980 to Feb. 1, 1982 was $7,833.

ASCS did the work, insurance agents got the commissions.

1981.—Burke County, Georgia—Total premiums $1,160,615.

Files for premiums of $696,000 were handled by ASCS Office.

ASCS wrote only 34 contracts but again the real work was performed by ASCS personnel at a total cost of $8,759 for 1981.

1981.—Houston County, Georgia—Total premiums $289,716.

ASCS office wrote 51 contracts at a cost of $30 per contract—a total of $1,530.

A. A. White, Jr., of Houston County, who has had much experience in Federal Crop Insurance, says the agent who wrote his 1981 crop insurance (Premium approximately $25,000), received $3,700 for at best two hours of work. (No investment, No risk—little work—damn high income).

Instead of Congress subsidizing crop insurance for the farmers who take all the risks, it is in reality subsidizing the insurance agents and insurance industry.

1981.—Payments to random loss adjusters.

Loss contractor No. 45103 in S.C.

Two-2 week pay periods January 16, 1982 and February 2, 1982 totaled $11,740.

1981.—Random loss contractors total payments as of February 8, 1982.

Contractor No.:	*Amount*
19A57	$20,160
28B09	20,920
30A38	19,759
37A25	23,020

37A27	$29,710
37A31	27,390
45H17	18,401
37A23	23,260
37A72	23,020
45D07	26,650
45D10	21,410
45D31	20,940
45D34	20,170
45H19	19,482
45G03	19,932
45G04	26,500
45G05	24,725
45G13	22,210
45G34	22,910
45H12	21,200
45H13	20,704

This is ridiculous for such a short time period of work. A farmer with a $500,000 investment would have a hard time averaging a net profit equal to these figures.

Cost savings could be used for either lowering premiums or making the system more self sustaining with less subsidy.

FEDERAL CROP INSURANCE CORPORATION

[Comparison of delivery systems, 1977–80 actual, and 1981–87 estimated]

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
A. Delivery systems:											
I. FCIC employees:											
Premiums (thousands)	$78,444	$72,399	$79,850	$124,503	$140,000						
FCIC cost [1] (thousands)	$12,099	$13,839	$14,552	$15,544	$15,323						
Number of contracts (producers)	176,282	165,350	157,357	173,698	143,947						
Cost per contract	$68.63	$83.70	$92.48	$89.49	$106.45						
Ratio of cost to premium	.15	.19	.18	.13	.11						
(Participation rate) [2]	(12)	(10)	(10)	(11)							
II. ASCS county employees (pilot program):											
Premiums (thousands)		$2,050	$3,823	$5,695	$12,154						
ASCS reimbursable cost [1] (thousands)		$402	$715	$760	$1,155						
Number of contracts (producers)		3,095	4,876	5,268	7,980						
Cost per contract [3]		$129.89	$146.64	$144.27	$144.74						
Ratio of ASCS cost to premium [3]		.20	.19	.13	.10						
(Participation rate) [2] (percent)		(11)	(11)	(13)							
III. Private agents:											
Premiums (thousands)	$23,332	$19,411	$19,674	$27,460	$217,846	$106,000	$87,670	$87,670	$87,670	$87,670	$87,670
Cost of commissions [1] (thousands)	$4,983	$5,163	$4,563	$6,171	$46,634	$31,200	$24,287	$22,474	$22,974	$23,474	$23,974

FEDERAL CROP INSURANCE CORPORATION—Continued

[Comparison of delivery systems, 1977–80 actual, and 1981–87 estimated]

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
Number of contracts (producers)	46,918	41,788	38,303	39,388	223,987	150,000	150,000	150,000	150,000	150,000	150,000
Cost per contract	$106.21	$123.55	$119.13	$156.67	$208.20	$208.20	$161.91	$149.83	$153.16	$156.49	$159.83
Ratio of agents' cost to premium	.21	.27	.23	.22	.21	.29	.28	.26	.26	.27	.27
(Participation rate) [2]	(24)	(19)	(17)	(20)							
IV. Master marketing agreements:											
Premiums (thousands)					$1,000	$234,000	$350,680	$350,680	$350,680	$350,680	
Cost of commissions [1] (thousands)					$288	$64,882	$97,081	$90,100	$91,900	$93,900	$96,100
Number of contracts (producers)					1,028	322,000	600,000	600,000	600,000	600,000	600,000
Cost per contract					$280.16	$201.50	$161.80	$150.17	$153.17	$156.50	$160.17
Ratio of master marketing cost to premium					.29	.28	.28	.26	.26	.27	.27
(Participation rate) [2]											
V. Reinsured companies:											
Premiums (thousands)					$12,700	$200,000	$438,350	$438,350	$438,350	$438,350	$438,350
Reinsurance cost [1] (thousands)					$4,545	$58,887	$121,280	$112,491	$114,850	$117,335	$119,969
Number of contracts (producers)					13,830	287,000	750,000	750,000	750,000	750,000	750,000
Cost per contract					$328.63	$211.82	$161.71	$149.99	$153.13	$156.45	$159.96
Ratio of reinsurance cost to premium					.36	.29	.28	.26	.26	.27	.27
(Participation rate) [2]					.36	.29	.28	.26	.26	.27	.27

FEDERAL CROP INSURANCE CORPORATION—Continued

[Comparison of delivery systems, 1977–80 actual, and 1981–87 estimated]

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
B. Indirect costs (prorated back to the various delivery systems):											
Marketing and collections, and contract servicing and claims (thousands)	($14,174)	($15,368)	($15,187)	($16,108)	($33,775)	($56,300)	($72,036)	($67,923)	($72,582)	($77,567)	($82,901)
C. Total:											
Premiums (thousands)	$101,776	$93,860	$103,347	$157,658	$383,700	$540,000	$876,700	$876,700	$876,700	$876,700	$876,700
Cost (excludes actuarial and loss adjustment (thousands)	$17,082	$19,404	$19,830	$22,475	$67,945	$154,969	$242,648	$225,065	$229,724	$234,709	$240,043
Number of contracts (producers)	223,200	210,233	200,536	218,354	323,913	750,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Cost per contract	$76.53	$92.30	$98.88	$102.93	$209.76	$205.63	$161.77	$150.04	$153.15	$156.47	$160.03
Ratio of cost to premium	.17	.21	.19	.14	.18	.29	.28	.26	.26	.27	.27
(Participation rate) [2]	(13)	(11)	(11)	(12)	(19)	(32)	(50)	(50)	(50)	(50)	(50)
D. Total, all administrative expenses:											
(Includes actuarial and loss adjustments) (thousands)	$26,899	$30,190	$30,524	$37,893	$91,715	$188,436	$293,703	$283,500	$288,399	$293,641	$299,250
Total cost per contract	$120.52	$143.60	$152.21	$173.54	$283.15	$251.25	$195.80	$189.00	$192.27	$195.76	$199.50
Ratio of total administrative expenses to premium	.26	.32	.30	.24	.24	.35	.34	.32	.33	.33	.34
E. Other program indicators (total):											
Insurance in force (thousands)	$2,205,628	$2,094,120	$2,138,806	$3,018,320	$6,000,000	$11,000,000	$17,500,000	$17,500,000	$17,500,000	$17,500,000	$17,500,000
Number of counties	1,467	1,522	1,526	1,676	1,928	3,000	3,000	3,000	3,000	3,000	3,000

FEDERAL CROP INSURANCE CORPORATION—Continued

[Comparison of delivery systems, 1977–80 actual, and 1981–87 estimated]

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
Acres insured (thousands)	25,500	21,576	21,461	26,601	46,800	92,000	142,500	142,500	142,500	142,500	142,500

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[1] Cost includes pro rata share of indirect cost of (1) contract servicing and claims, and (2) marketing and collections.

[2] Percent acres insured of the potential acreage where crop insurance is available.

[3] Reimbursement to ASCS does not include their overhead costs.

Statement of C. J. Grigsby, Manager of Insurance, Southern States Cooperative, Inc.

As a representative of Southern States Cooperative, Inc., a producer-owned and controlled cooperative who for almost 60 years has had a vital interest in the welfare of their farmer-owners, I welcome the opportunity to submit statements, opinions and recommendations to the Subcommittee relative to the Federal Crop Insurance Act as amended in October 1980.

Southern States provides the vital services of production, processing and marketing facilities to our farmer-owners through a network of 444 distribution points in the States of Virginia, Delaware, Maryland, West Virginia and Kentucky. In November of 1981 an Agency Sales and Service Agreement was executed with the Federal Crop Insurance Corporation and Southern States became a Master Marketer. This action was taken only after careful analysis and deliberation convincing us the uniform and equitable expansion of FCIC services and benefits to our membership was highly desirable as a stabilizer of the argicultural economy.

The 1980 amendment stated in its Declaration of Purpose to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance. The amendment further specifically grants the Board authority at its discretion to utilize producer-owned and producer-controlled cooperation associations. Southern States in its deliberation endorses these declarations and is desirious of seeing such services and benefits expanded to all our farmer-owners.

Within a matter of a very few months, and in time for the 1982 spring crops, Southern States selected and trained a total 110 agents within its five state area, most of whom are not licensed as insurance agents by the various states. Their formal training consisted of three full days in a classroom environment, included not only the technical aspect but also ethics and benefits to farmers. In addition, our agents benefitted from continuous field training through direct supervision, a weekly updated bulletin, training manuals, and a sound quality assurance program. As a result, our document suspension rate is 1.7 percent compared to approximately 35 percent experienced by FCIC during the 1981 crop year.

Southern States also spent slightly under $40,000 in promoting the benefits of All Risk crop insurance for the 1982 spring crops, excluding various articles distributed to our membership as illustrated on pages 16 through 19 in the attached copy of the February edition of the Cooperative Farmer[1] printed by Southern States and distributed to its members. In addition, data processing costs of $75,000 have been incurred permitting us to sell and service All Risk crop insurance to our members on a least cost basis. These actions firmly confirm our committment to the program and our beliefs its goals parallel those of Southern States.

Conceptionally, the revised All Risk crop insurance program is excellent in that it provides the mechanism of reducing risk of loss from unavoidable causes thereby affording the capability of undergirding the articultural economy and promoting the national welfare. Unfortunatley, the vast expansion undertaken in such a short period of time resulted in actuarial and logistical discrepancies preventing its implementation from totally reflecting the spirit of the amendment. This immediate growth has understandably had a traumatic effect on FCIC's administrative and logistical support efforts. In addition, the transfer of existing business to the private sector in some areas may have enured to the benefit of only a few marketers; opposition was evident in certain regions among FCIC's field personnel; confusion and in some cases outright hostility, was displayed by other USDA agencies; the tremendous effort expended by marketers in building an immediate agency system and the extreme economic plight of the farmer all combined to retard the projected growth of crop insurance and created confusion as well as distrust among those the program was designed to help.

Specifically, the following are believed to have restricted the acceptance of All Risk crop insurance by the farmer:

1. Inadequate cost/benefit ratio: The problem appears to have been manifested principally in yield levels of grain crops and individual farm classification. This is in stark contrast to the overwhelming acceptance in such established crops as tobacco and peanuts.

2. Overpopulation of agents: The rapid expansion of FCIC services has generated an absolute explosion of agents representing both underwriters and Master Marketers, many of whom are poorly trained, thereby creating an undesirable program image. Undoubtedly, the situation will self correct in the near future.

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[1] Retained in committee files. See p. 104 for the material referred to.

3. Distribution of existing business: There appears to have been considerable inequities in the transfer of existing business to the private sector. The system utilized encouraged marketers to concentrate their efforts in this direction rather than generating new business. Final distribution appears at least in certain areas to have greatly favored selected marketers.

4. Failure to obtain USDA agency cooperation: Support of the program by ASCS and others at the local level have varied from noncommittal to outright hostility. The co-ordination of purpose and activity between such agents having direct contact and exercising great influence in the agricultural area seems to have been virtually nonexistent. It is further felt support of the new marketing system was severely lacking among some FCIC personnel. Information provided marketers through FCIC channels in many instances was garbled, conflicting and unrealiable and certainly not adaptable to mass marketing. The combination of these factors created havoc in the ranks of the marketing force and would have had a rather devastating effort on our achievements had it not been for the extra support of the Raleigh, North Carolina Field Operations Office and their belief in the intent of the 1980 amendment.

5. Bilateral amendments to the marketing contracts: Southern States executed the first contract in November of 1981, a revision in March of 1982 and now anticipates a second revision prior to the 1983 spring crops. Unfortunately each such substitute contract, presented following notice of cancellation, was less desirable than its predecessor. These bilateral modifications in the Agency Sales and Service contracts deprives the Master Market of continuity of terms and conditions creating apprehension and distrust, thereby diluting the marketers enthusiasm for incurring present cost for future benefits.

The following items are offered as recommendations for affirmative action:

1. An immediate correction of the problems previously outlined which stifle FCIC's efforts through the 1982 crop year.

2. Offer a contract to both reinsured companies and master marketers providing an acceptable level of continuity, does not discriminate between the two systems and affords a reasonable degree of stability and reliability. The contracts should assure identical benefits to the farmer thereby enhancing its acceptance and decreasing administrative costs.

3. In view of the present economic climate, the program should be enhanced for the immediate future by delaying payment of premium until harvest and if unpaid at that date, attach a reasonable monthly interest charge to the effective termination date of the policy. Requiring the farmer to pay money upfront prior to harvest adds to the present financial burdens and cash flow problems being experienced by producers of food and fiber in these United States.

4. FCIC's recent Board action requiring all agents to be licensed under applicable state laws with the 1984 spring crops will be highly disruptive of the overall sales and services efforts. The effect of this action could be the immediate demise of the master marketer system in its entirety. In the majority of states, if not all, licensing of insurance agents is limited to those of approved insurance companies. As FCIC is not subject to the jurisdiction of the various states and therefore not an approved carrier, enabling legislation would be required to facilitate licensing of such agents. Furthermore, most states do not issue a restrictive license which would mandate all such agents to qualify under various lines of insurance including property, liability and marine and all of their respective sublines. This obviously would place a needless burden on those whose sole interest is restricted to the Federal Crop Insurance program.

As there is no facility for licensing agents otherwise and as master marketers are not insurance companies, the sales and service of FCIC crop insurance through the master marketing system could cease to exist. It is, therefore, recommended the licensing requirement be rescinded or else proper corrective action be taken to negate the obstacles existing under present regulations.

5. The assumption of liability for the policyholders premium is not only an unrealistic requirement for master marketers but also for reinsured companies. It is felt each should display their best efforts in effecting collections. However, when such is not forthcoming, the liability should remain solely that of the policyholder for whom the benefits are designed. Furthermore, there appear to be technical difficulties particularly for the master marketer. In contrast between the two systems, the private underwriter enjoys a contractual relationship with the policyholder and exercises discretion as to the acceptance or rejection of applications as well as policy continuation. This not only gives the underwriter the ability to proceed to effect collection, but also permits selectivity in the sales efforts.

Unfortunately, the master marketer is severely restricted in its selectivity and right of recourse. As an agent of FCIC, they have only the rights and privileges granted by the principal as the ability to approve insurance applications and cancel policies are reserved exclusively by FCIC. Furthermore, an agent required by contract to pay such premium would be deprived of their right of recourse in that the contractual relationship is confined to FCIC and the policyholder with the agent being strictly a third party.

It is strongly recommended marketer not be contractually liable for the policyholder premium and the exposure to loss thereby faced by FCIC be included in the actuarial rate assumptions.

6. Service to limited agricultural areas: The raising of crops in certain areas is limited to very small acreage due to terrain and soil types creating an unreasonably high sales and service cost to the marketer. This is particularly true in West Virginia, southwest Virginia and eastern and southern portions of Kentucky where the principal crop of tobacco may average less than two acres.

Southern States as well as FCIC believes farmers in these locales are as deserving of the insurance protection as those averaging many times their crop size. It is recommended to facilitate expansion into these areas, a minimum commission as previously existed be reinstated, to become effective for the 1983 spring crops.

7. Exclusion of fire and hail perils: The present policy provides an option whereby these perils may be excluded from FCIC coverage provided such insurance is purchased from private underwriters. Although the option has not been elected frequently, reports indicate the commercial crop insurance underwriters have shown increased activities and sales during the present crop year. This suggests the marketing efforts generated by FCIC has also benefited the insurance industry through emphasizing the need for risk transfer.

Restrictions in coverage would add to the present high level of confusion among farmers. Time is desperately needed to put the present program into effect and changes in policyholder benefits within the near future are most undesirable. It is recommended all policy terms and conditions remain unchanged until such time as the acceptance of the program by the farmer is assured.

Southern States endorses and is committed to the concepts and intent of the 1980 amendment. We feel incorporating the private sector as a vital component in the government's effort to promote the farmers and national welfare is commendable. Through proper design and administration, the program can become self funded thereby eliminating the need for any federal or state subsidies.

[The following articles were submitted by Mr. C. J. Grigsby, Southern States Cooperative, Inc.:]

[Excerpt from Cooperative Farmer—February 1982]

CROP INSURANCE—REDUCING THE RISK OF FARMING?

Unless you live in a cave or aren't involved with crop production at all, you no doubt are aware there is a new Federal crop insurance program available this year.

The words "crop insurance" sound mighty comforting. Indeed, ag advertisers have used the phrase to describe everything from fertilizer to irrigation to attract growers' attention. Now the real thing's here.

Is crop insurance worth getting excited about? Should every grower buy it? Exactly what benefits does it provide? While some type of crop insurance has been around for 100 years, it's fair to say most producers have never seen anything such as this.

The truth of the matter is that it's difficult to get very specific about the bottom-line benefits of the new "all-risk" expanded crop insurance program. If you've begun to question whether crop insurance is right for you, the best answer you'll find in an article such as this will be, "It depends."

It does seem, however, that crop insurance is worth some serious consideration by most growers. And, yes, some people are probably going to think crop insurance is the greatest idea since hybrid corn. You may be one of those farmers.

Some cynical producers might ask, "Why are all these people suddenly selling crop insurance with Uncle Sam's backing during a time when all we hear out of Washington is 'cutback'?"

That's a good question. It introduces one of the better reasons why you should consider crop insurance.

Remember the drought of 1980 and how some farmers had to turn to Federal disaster payments to survive? Those disaster payment programs disappeared about the same time expanded crop insurance appeared on the scene. It's all a part of the "less government" movement that's so popular now.

To put a finer point on it, ASCS disaster payments will be discontinued for 1982 crops wherever all-risk crop insurance is available. Eligibility standards on USDA's "natural disaster" loans from Farmers Home Administration and the Small Business Administration have also been tightened—for example, production must drop at least 30 percent below normal production; the old figure was 20 percent. State officials can no longer declare disaster, only the Secretary of Agriculture can, and at least 25 producers per county must suffer losses.

The phasing out of the government's low interest disaster loans means that without crop insurance you'll be more exposed than ever to a loss.

If that news opened your eyes, what do you think it did for the people who are lending you money to get the crop in and out of your fields? Producers who aren't interested in crop insurance may find their lenders aren't interested in them.

Before you start cursing the fact that you are being forced into budgeting another production expense, take a couple of steps back and see what you're getting. It may be a good value.

The nuts and bolts of the program are covered on the next 3 pages. You will have to talk with a insurance agent to determine exactly what your costs will be. Then you must decide for yourself what it's worth to you.

But after putting a sharp pencil to costs, don't forget to look at the returns. According to the USDA, the benefits include these points:

The new insurance program should permit you to recover most of the lost production costs in case of a crop disaster.

You are protected against crop losses caused by such adverse conditions as drought, excess moisture, hail, wind, frost, freeze, winterkill, snow, lightning, fire, insects, plant disease, flood, wildlife and earthquake. In all, USDA's Federal Crop Insurance Corporation (FCIC) says it has identified 119 separate causes of production losses, including volcano eruptions.

The new insurance can help you manage your farm for higher production levels. With this insurance you can risk larger expenditures on extra fertilizer or other inputs that can produce greater yields.

If you need to borrow money to put in your crop, the insurance provides the cash flow and loan security that should help in borrowing money. In fact, your insurance coverage can even be pledged as loan collateral, with indemnity payments made jointly to you and the lender.

As an insured farmer, you can lock in a better market position through more confident use of hedging or forward contracting.

Premiums may be paid after the harvest and no interest will be charged. In effect, this amounts to a no-interest loan.

Landlord or tenant, if you have an interest in a crop, you can insure it through this program.

That's an impressive list of benefits and it doesn't even mention the "peace of mind" factor.

CROP INSURANCE FROM YOUR CO-OP

Southern States knows about farm production supplies, but what could the co-op's personnel know about insurance?

Believe it or not, the farm supply organization has been in the insurance business since 1952.

To make a long story very short, Southern States found out that the wholesale and retail points it managed or worked with were charged rates by mainstream insurance companies higher than experience had shown was necessary. By setting up a small, fully-licensed insurance company—Southern States Insurance Exchange, Inc.—the co-op was able to reduce property insurance costs for all its retail dealers and wholesale operations. The small company rents space in the Southern States central office in Richmond, Va., and is run by a handful of insurance professionals managed by C. J. Grigsby.

What does this have to do with crop insurance for farmers?

USDA's Federal Crop Insurance Corporation's (FCIC) new, expanded program is so big and is moving so fast, there are few people who can claim to be experts—everyone is learning at the same time about the program. But, to some degree, insurance is insurance. Combine the insurance experience the co-op has had with the in-depth knowledge within Southern States about the needs of its farmer-patrons, and the logic of the farmers' organization entering the crop insurance field is obvious.

So, a new company has been formed—Southern States Crop Insurance Agency, Inc. It is a wholly owned subsidiary of Southern States Cooperative, Inc.

Southern States is not your only source of crop insurance, which is important for consumers of this new product to understand.

The main point to remember when picking a source of Federal crop insurance is that everyone is going to offer the same rates for the same amount of coverage. This is because the government—the FCIC—is actually providing the insurance. Southern States and others are simply marketing it for a commission.

Therefore, when it comes to deciding whom to buy their crop insurance from, farmers will not be able to shop for price. Instead, they'll choose the insurance agent who best knows their crop production problems and can understand the why and how of farming. "No doubt about it, this is a job for Southern States," says Rod Williams, coordinator of Southern States Crop Insurance Agency.

As you read the ads and talk with all the people who are offering Federal crop insurance, it may become difficult to believe they're all offering the same product. This is because the FCIC has different arrangements with different marketers. (FCIC no longer sells crop insurance directly to farmers.) There are three types of marketers:

Individuals who have a sales and service contract with FCIC. These are generally insurance agents in rural areas who may or may not know anything about production agriculture.

Private underwriters who will share some of the risk with FCIC for a slightly larger commission. These crop insurance policies can have the name of the organization on the contract, rather than FCIC's, but their rates and terms will be the same as others'.

Master marketers who serve a large area. They provide support service to their agents in the field such as training, advertising and potential customer lists and, if necessary, smooth out problems the agents and farmers might have with their policies. Master marketers, however, hold no more risk than the individuals who are selling policies for FCIC.

Southern States Crop Insurance Agency is a master marketer. SSC's Grigsby, who spearheaded the co-op's entry into the crop insurance field, explains there were several reasons why Southern States picked this method to offer crop insurance to farmers. Perhaps the best reason to work as a "master marketer" is that such a seller does not assume any of the crop insurance risk.

"No one can really be certain how sound the actuarial charts are where crop insurance has been offered before. In 5 or 10 years—after the government has had some experience with it—I believe they would like to reduce their role in the crop insurance business and let private industry handle more of it," the SSC insurance man notes. "Then, if feasible, we should be able to handle the risk with no problem."

Despite the ties with Southern States, your local crop insurance agent might not be officially connected with your local Southern States retail point. "While appointments as local crop insurance agent will be available to private Southern States dealers—farm supply businesses which handle SSC products but are independently managed—no Southern States employees will be selling the insurance," explains Grigsby.

Instead of co-op employees, Southern States Crop Insurance coordinator Williams is selecting and signing up new people to work for the organization on commission. Using the resources of the parent company—Southern States Cooperative—Williams has been able to locate and sign up a group of extraordinarily qualified agents. One excellent source of agents has been retired Southern States employees. These people are very aware of their communities' needs. (See your local Southern States farm supply dealer to contact the Southern States Crop Insurance agent who serves your area.)

With the government offering less and less in the way of disaster protection and farmers needing a stable income more than ever, it was a natural for Southern States to become involved with this new program, says Grigsby.

"We think that in a few years crop insurance will be as common as soil testing. Handling crop insurance is as natural for Southern States as selling fertilizer or feed. It's part of our one-stop service to production agriculture. It's a logical extension of our Grow-Master program," Grigsby notes.

"Of course, we expect this program to pay for itself. If it's successful, the commissions from our marketing of crop insurance could help contribute to Souther States' bottom line and increase our net savings for our member-patrons," says crop insurance coordinator Williams.

UNDERSTANDING THE NEW CROP INSURANCE

Woody Allen once described "enternity" as an evening with an insurance salesman.

After you look over the options in the new Federal "all-risk" crop insurance program, you may think you'll need an eternity to figure it all out.

If you're like most farmers, crop insurance is probably something totally new and different. After getting a few basics down, however, you'll find it's a lot easier to make some decisions.

Simply put, an insured farmer is "guaranteed" a certain amount of production per acre. You can select from three levels of guarantee per acre.

You also select in advance how much money per bushel or per pound you will receive from the Federal Crop Insurance Corporation (FCIC) when disaster causes you to produce less than your insured yields.

Before the planting season, FCIC will establish three price levels on covered crops. The highest of those levels will be based on an estimated market price at harvest. The other two levels will be lesser amounts, which will have a lower cost.

The crop insurance covers all losses caused by natural conditions beyond your control, but the insurance does not protect you from mismanagement.

So far, so good. Unfortunately, the averages the government uses do not always jibe with real life on your farm. The end result can be that crop insurance is not as simple as it seems.

For example, say the average crop yield, according to ASCS and FCIC, is very low in your county. You, however, are a better than average farmer and have hit below the county average only once or twice in 20 years of farming. With the highest level of insurance, you could collect little or nothing even if it's a terrible year for you.

To bring the above-average farmers into the crop insurance program. FCIC is now allowing farmers to substitute their own yield records, provided the ASCS will accept them. You need at least 3 years of acceptable records for an adjustment; 10 years of records would be the best.

Perhaps more important to remember, says C. J. Grigsby of Southern States Crop Insurance Agency, is that all the numbers and percentages are simply guides to establish an insurance policy and should not be taken to be specific.

"The goal of the program is to allow you to recover your lost production costs and let you try again next year," explains Grigsby. "It will be difficult for a program such as this to guarantee a profit. The FCIC ads are calling the program a 'safety net.' That's a pretty good analogy."

As you have probably determined yourself, understanding the benefits and the costs in your situation is going to require sitting down with a crop insurance agent and having him put a pencil to your figures. Each crop is different, each county is different and what insurance means to each farm will be different. Plus, there are the different levels of price protection for you to choose from.

Nevertheless, there is a simple example at right to help you get a feel for the new program.

Interestingly, USDA has an example that compares crop insurance with the disaster payments program. The story goes like this:

Take a wheat farmer who has an average annual yield of 40 bushels per acre, which is also the average for the county.

Suppose the target price for wheat is $3.81. Now suppose the farmer selects the highest level (30 bushels per acre or 27 bushels unharvested) and selects $3.50 for a price level. The farmer's share of insurance premium would be $6.60 per acre.

Assume drought completely wipes out the farmer's wheat crop and he plows it up to keep the weeds down.

According to USDA, if he took disaster payments he would receive $45.84 per acre on his lost crop. With crop insurance, he will be paid $94.50 per acre (unharvested basis). That's $48.66 more with the $6.60 insurance investment.

The first question about the new crop insurance program at the production seminars at Southern States' annual meeting last fall was from a farmer who wanted to know how the program was going to be policed and what was required to make a claim.

The program will indeed be policed for fraud, although past experience with farmers has proved that this was not a serious problem, according to FCIC officials. Exactly how they'll do the policing hasn't been revealed. as for making a claim, a certain amount of paperwork will be required, of course, but there has been an effort to hold the red tape to a minimum. The local crop insurance agent will help with the forms and answer questions.

There will be FCIC fieldmen—local people who work on contract for the government—who will inspect the crops, when necessary, to certify crop losses. The actual procedure varies from crop to crop as well as with the different types of disaster. Good records will be a must. All in all, filing a crop insurance claim will probably not be too unlike requesting a disaster payment from the ASCS. And it's hoped payment will come much quicker.

SOUTHERN STATES COOPERATIVE, INC.,
Richmond, Va., June 25, 1982.

Re Federal Crop Insurance Corporation, subcommittee hearing—May 20-21, 1982.

Hon. THAD COCHRAN,
U.S. Senator,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR COCHRAN: Although I have forwarded to your attention a copy of my statement to the Subcommittee and expressed briefly my concerns in the cover letter of June 3, I feel additional comments are in order.

It is my firm belief the dual marketing system will eventually be phased out in favor of the reinsured companies. Perhaps such a move in the future would be beneficial to both farmers and the accomplishments of the goals incorporated in the 1980 amendment. A rapid transition, however, will prove highly disruptive to the marketing efforts. The present Board resolutions relative to the licensing of master marketers under state jurisdiction and their assumption of liability for the policyholder premium would place them in an untenable position.

Farmers' acceptance and participation is the key to the success of FCIC's efforts. They are now confused and in many instances distrustful of the program. A cohesive effort on the part of USDA agencies and all marketers is a prerequisite to overcoming buyers resistence. Disruption in the marketing systems by reassignment of up to 82 percent of all policyholders to reinsured companies will produce the opposite results and reduce participation perhaps even to the extent the program becomes unworkable. Farmers interest in USDA activities are apparently at an all-time high as illustrated by almost 2,000,000 attempted phone calls being generated by hearings conducted by the Agricultural Council of America on May 24. Their welfare is at stake and they are demanding a workable system.

It is respectfully suggested these resolutions be withdrawn and the present marketing system not be disrupted until such time as acceptance and stability is assured.

Yours very truly,

C. J. GRIGSBY,
Manager, Insurance Department.

E. L. ROSS AGENCY, INC.,
Enfield, N.C., June 11, 1982.

Senator THAD COCHRAN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR COCHRAN: On June 2, 1982, Mr. C. J. Grisby, Southern States Co-Operative, Inc. and I met with Mr. Merritt Sprague to express our concern about various issues confronting the All-Risk Corp Insurance Program.

In my opinion, the most vital issue before the FCIC Board of Directors at this time is the disappointing level of farmer's participation in the program in 1982 and the need to expand participation in 1983 and future years.

The proposal that Master Marketers and Reinsurance Companies be required to collect and pay premiums in the same manner is an important issue which must be dealt with. However, the manner in which it is resolved will be of utmost importance to the success of the program.

Attached is my letter of June 10, 1982 to Mr. Sprague outlining my recommendations on this issue. I would appreciate the contents of this letter being added to my prepared statement presented at your hearing if it is not too late. Your review and comments on this proposal will be greatly appreciated by myself and the producing farmers if it helps to strengthen this vital insurance program.

Sincerely,

E. L. ROSS.

E. L. Ross Agency, Inc.,
Enfield, N.C., June 10, 1982.

Re proposal that agencies be required to collect and pay premiums in the same manner as the reinsured companies.

To: The Honorable Merritt W. Sprague, Manager, Federal Crop Insurance Corporation.

From: Ernest L. Ross, President, E. L. Ross Agency Inc. (MMA), General Agent, Alliance Mutual Insurance Company (Reinsured).

I concur with the proposal that the two private industry sales and service systems be contractual equal with no competitive edge to either.

The premiums earned by FCIC, both as a direct writer (Master Marketers) and as the reinsurer of all-risk insurance (reinsured Companies) should remain solely the liability and indebtedness of the policyholder that purchases and benefits from the coverage. Furthermore, FCIC should include their anticipated bad-debt in their actuarial rate structure.

Agents for both delivery systems should make their best effort for timely premium collection and receive no commission for sales and service of contracts which are not collected. Furthermore, agencies and companies should not receive all the administrations expenses for contracts which remain uncollected.

The above recommendations would bring about many positive benefits for FCIC and the farmer including the following:

1. Create a more uniform and equitable competition between the two delivery systems.
2. Maximize the sales efforts of the private sector resulting in increased participation by the farmers.
3. Wider participation by the farmers would strengthen the all-risk insurance program both actuarial and as the replacement for the "ASCS low yield disaster program."
4. Service the financially troubled and marginal farmers without his having to pay premiums in advance to purchase coverage if agents will not guarantee their premium.
5. Bring about a smoother, more workable, transition of all-risk insurance to reinsured companies over the next few years.
6. Prevent producers from purchasing insurance from different reinsured companies each year without paying earned premiums through the utilization of a centralized indebtedness list maintained by the FCIC.
7. Permit more uniform procedures and data processing by the private sector and FCIC.

If collection, payment and guarantee of premiums is required by Master Marketers in 1983, many negative results will occur which potentially could destroy a great program that is ready to move forward with great strides.

1. Legal problems will arise with a third party (MMA) being responsible for a debt owed to the U.S. Government by the policyholder.
2. Master Marketers would have to be given the power and ability to cancel policies, select, and/or reject farmers applications. These rights and privileges are presently reserved exclusively by FCIC.
3. Cause tens of thousands of farmers FCIC policies to be orphaned. Who would service them?
4. Reduce the number of agents able to sell all-risk insurance to only those financially able to commit large assets to guarantee premiums.
5. Slow down or even reduce the level of farmers participation in the program rendering FCIC ineffective as a replacement for the ASCS Disaster Program.

I respectively submit this proposal for your consideration and trust that you will present it to the FCIC Board of Directors for their consideration.

E. L. Ross.

Statement of Stephen G. Kellison, Executive Director, American Academy of Actuaries

The American Academy of Actuaries ("Academy") appreciates this opportunity to present written comments for the record of the oversight hearings on the federal crop insurance program held on May 20-21, 1982. The Academy is interested in commenting on the federal crop insurance program because of the actuarial activity which is performed in the operation of the program. Attached as Appendix A is some background information on the Academy.

The Academy testified at various hearings on proposed crop insurance legislation which ultimately resulted in the Federal Crop Insurance Act of 1980. In our prior testimony we stressed the following points:

Actuarial techniques are an essential ingredient in any private or public insurance program in assuring that current costs are properly determined, adequate reserve levels are established, and projections of future trends in costs are recognized.

The interest of the actuarial profession is with the proper financing of such programs and not with the allocation of costs among various parties. Thus, the Academy does not have a view on how the costs should be borne by various individuals or groups in the private or public sector (i.e., the level of federal subsidy).

It is important that the actuarial work on these programs be done in accordance with generally accepted actuarial principles and practices by qualified actuaries.

In connection with these present oversight hearings we were pleased to see the recognition of the actuarial dimension of the federal crop insurance program contained in Mr. Sprague's testimony. This recognition is a key ingredient in assuring the ongoing financial integrity of the crop insurance program.

The Federal Crop Insurance Act of 1980 specifies that premiums for insurance should be set at a level actuarially sufficient to cover claims for losses and to establish a reasonable reserve against unforeseen losses. If rates are set at an adequate level, the cost of the program over the long run would be the premium subsidy specified in the Act plus the cost of administering the program. These costs can be controlled by Congress through the normal budgeting process. However, if the rates charged are not adequate, the federal government ultimately pays a "hidden subsidy," equal to the difference between the rates actually charged and the actuarially sound rates.

While overall rate adequacy is very important, rate equity is of equal importance in ensuring a viable program. Rates should be developed so that one state does not subsidize another state, and one crop does not subsidize another crop, etc. Employing modern actuarial techniques to the extent possible can ensure that rates are set on an equitable basis. if rates are not equitable, those producers who stand the most to gain will tend to participate, while others will tend to drop out of the program. This drives up the average level of rates and results in higher premiums for everyone.

The Academy appreciates the opportunity to present this statement. We would be happy to answer any questions or provide further information to the Subcommittee if that would be useful to you.

APPENDIX A

Background Information on the American Academy of Actuaries

The American Academy of Actuaries is a professional association of actuaries which was formed in 1965 to bring together into one organization all qualified actuaries in the United States and to seek accreditation and greater public recognition for the profession. The Academy includes members of three founding organizations—the Casualty Actuarial Society, the Conference of Actuaries in Public Practice, and the Society of Actuaries.

The Academy serves the entire profession. Its main focus is the social, economic, and public policy environment in which the actuarial profession functions. Its primary activities include liaison with federal and state governments, relations with other professions, public information about the actuarial profession and issues that affect it, and the development of standards of professional conduct and practice.

Over, 6,600 actuaries in all areas of specialization belong to the Academy. These members are employed by insurance companies, consulting actuarial firms, government, academic institutions, and a growing number of industries. Acturial science involves the evaluation of the probabilities and financial impact that uncertain future events—birth, marriage, sickness, accident, retirement, and death—have on insurance and other benefit plans.

Membership requirements can be summarized under two broad headings: Education and experience. At present, the educational requirements can be satisfied either by passing certain professional examinations sponsored by the Casualty Acturial Society or the Society of Actuaries, or by becoming an enrolled actuary under the Employee Retirement Income Security Act of 1974 (ERISA). The experience requirement consists of three years of responsible actuarial work.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
Brookfield, Wis., May 20, 1982.

Hon. THAD COCHRAN,
Chairman, Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Senate Agriculture Committee, Russell Building, Washington, D.C.

DEAR SENATOR COCHRAN: The National Association of Insurance Commissioners (NAIC) is pleased to have this opportunity to submit these comments for your Subcommittee's oversight hearings on the federal crop insurance programs, and we ask that these be made part of the hearing record.

The members of the NAIC are the state officials who regulate insurance at the state level. The insurance commissioners are from all 50 states, the District of Columbia, and U.S. territories and possessions. The NAIC was organized in 1871 and has continually represented the interests of state insurance regulation since that time.

It is our belief that the federal law governing the Federal Crop Insurance Corporation (FCIC) was amended in 1980 in such a way as to encourage the broadest participation of the private sector in providing agricultural interests with multiple-peril crop insurance. Under the Federal Crop Act of 1980, there were two provisions which were essential to the transition of the federal government out of the crop insurance business:

(1) The administration of the programs by the private insurance companies, and

(2) Allowing individual agents to sell and service multiple-peril crop insurance policies.

While this has opened up the program somewhat to the private insurance industry, we believe that, in reality the FCIC proposed a program in which the federal government would write this coverage directly in competition with the private industry, in such a way as to minimize, if not eliminate, the private insurance market and its supervision by the states.

The NAIC has four specific recommendations.

(1) The coverages of hail and fire should be removed entirely from the Federal Crop Program since these coverages are readily available through private insurance carriers.

(2) The federal government should remove themselves entirely from the sale of multiple-peril crop insurance to the extent that it could be made available from private carriers.

(3) In the event the federal government continues to make this coverage available, they should be required to charge actuarially sound rates.

(4) Only licensed agents should be allowed to market and service these policies.

In keeping with the longstanding position of the NAIC in favor of the broadest state regulation of insurance and the least possible intrusion by the federal government into this area of state regulation, the NAIC is opposed to any federal efforts to compete with the private insurance market, unless a prior showing is made that private insurers are unable or unwilling to make adequate coverage available to agricultural risks. Our position is clearly in line with the Administration's "New Federalism" policies of allowing the states to maintain control where necessary. This is a most obvious place, for the states already exert jurisdiction over insurance.

Respectfully submitted.

LYNDON OLSON, Jr., *President.*

STATEMENT OF JOHN S. BARR, III, CHAIRMAN, PRODUCER STEERING COMMITTEE NATIONAL COTTON COUNCIL OF AMERICA

Thank you Mr. Chairman.

My name is John S. Barr, III. I am a cotton farmer from Oak Ridge, Louisiana, and presently serve as chairman of the Producer Steering Committee of the National Cotton Council. The Council, in whose behalf I am testifying, represents all segments of the raw cotton industry from grower to manufacturer and from coast to coast. The committee which I chair is composed of grower representatives selected by cotton producer organizations in each of the 14 major cotton producing states. We believe it provides a true cross-section of producer views from across the Cotton Belt.

The committee is the producer segment's advocate within the Council. It has the responsibility of developing recommendations on price and production policy for consideration by the Council's program committees and in turn the delegate body.

In February, at the Council's annual meeting in Dallas, Texas, producers and other delegates gave very serious attention to proposals for expanding and improving protection for farmers against abnormal weather and other conditions beyond their control. The position agreed to was spelled out in a resolution reading as follows:

> Work with USDA to establish fair and equitable farm yield procedures for purposes of determining Federal Crop Insurance and farm program payments, and provide that producers be allowed to adjust payment yields up or down when changes are made in planting patterns;

The Council has long supported a widely affordable all-risk Federal crop insurance program for cotton based on individual farm yields and area production costs. The FCIC program currently offered does not fulfill this objective.

The program as administered for the 1981 crop only attracted 11% of the cotton acreage, and in one of the best yield years in recent history, as well as the first opportunity to transition from the disaster payment approach, FCIC generated a loss ratio of 1.12 for cotton. These figures alone are adequate testimony to the fact that responsible farmers feel that the program does not address their risk, nor is it affordable.

The current program was designed to move the government cost for risk exposure under the old disaster program over into a government insurance premium subsidy. Unfortunately, the program is still not affordable. It appears that the risk to the treasury is increased and the intended subsidy for lower premiums is largely passed through to the insurance agent in the form of commissions, which are currently in the range of 20%.

We recognize that insurance has to be sold if the volume is to be achieved that will provide an affordable program, but current commission rates add materially to producers' costs and discourage participation.

If the FCIC program is to survive in any form, it is imperative that the program address the needs of responsible farmers, both in terms of risk protection and reasonable price.

We feel very strongly that the law should require USDA to base its crop insurance on individual farm yields obtained from ASCS actual yields, or if these are not attainable, from the next best reliable source. In our opinion the FCIC program of past years failed primarily because of "adverse selection" of program participants created by the county or area wide yield procedure.

Secretary Block announced last July that any farmer who believes that insurance coverage offered to him is based on unrealistically low average yields will be allowed to prove his yield and insure on that basis. Unfortunately, however, FCIC interpreted that promise rather strictly by requiring ten years of production records, which in many cases are impossible to assemble. Production records for the past five years should be entirely adequate to indicate a farmer's production ability.

Other specific recommendations which in our opinion would improve the program materially are as follows:

1. Increase the allowed maximum insured coverage to 90% of the previous five year average.
2. Increase or decrease insurance premiums more rapidly based on the farm's loss ratio experience.
3. License and strictly supervise all insurance agents.
4. Assign responsibility for determination of acreage planted and harvested to ASCS.
5. Clarify and simplify the program for farmers and aggressively promote it, using ASCS personnel and private firms to the maximum extent possible.
6. Reduce the number of time periods used to determine loss levels from three to two, and more accurately determine normal costs of production incurred by producers during the first period. For example, the first period might be from planting until first bloom; the second period from the bloom through harvest. Payment for complete destruction of the crop during the first period should be based on the percentage of total cost incurred to that point on an area basis. The requirement that 20% of the insured yield be harvested before maximum payment per acre be earned should be eliminated.
7. Extend insurance coverage until harvesting is normally completed in a region, rather than arbitrarily terminating on January 1.
8. Determinations regarding extent of damage to a standing crop, whether or not a producer has farmed the crop in a workmanlike manner, and the loss based on un-workmanlike farming practices now are the responsibility of the FCIC claims adjuster. The producer's only appeal of what he considers an unfair determination is to the adjustor's district director and then to the regional director. An appeal procedure should be developed which would place such determinations with an unbiased board of arbitration. We recommend the local ASCS county committee. In addition, we believe that a procedure should be initiated to require local ASCS committees to make a "determination of workmanlike" manner before FCIC claims are paid.
9. The present soybean insurance contract now provides for a three-bushel payment at the insured rate ($4.50, $6.00, or $7.00 per bushel) if the producer is forced to re-plant the crop. Such a provision should be included in the cotton contract; for example, 40 pounds at the insured rate (45¢, 50¢, 65¢ per pound).
10. Producers who choose to plant or re-plant a cotton crop after the optimum date for the local area should be allowed to continue the contract, but at a reduced yield per acre.

However, this should be permitted only up to a date beyond which any planting is unreasonable.

Gentlemen, we realize that making the currently authorized program work is complicated and an undertaking of great magnitude. Few farmers are expert in the field of insurance. There is a need for flexibility in the law. But experience is a good teacher, and the history of this program to date has made many of our producers somewhat skeptical.

Mr. Chairman, we commend you, your committee, and the current administration in USDA for efforts to put in place the adequate protection farmers need for the uncontrollable risks they face. We believe you are moving in a direction that is good for farmers, our government and our nation as a whole. We pledge to you our cooperation in this objective.

We believe that our suggestions are administratively possible, but if in the wisdom of this committee and the Congress you determine that the current law requires alteration, or a new program instituted, we feel that you should consider:

(1) total ASCS administration, and

(2) insuring a specific cost of production or total input based upon individual growing areas.

Thank you for the oppotunity to present our views.

# # # #

STATEMENT OF MORRIS DICKEL, LEGAL COUNSEL FOR THE RED RIVER VALLEY SUGAR BEET GROWERS ASSOCIATION

Mr. Chairman and members of the Committee: My name is Morris Dickel. I live and practice law in Crookston, Minnesota. It's a small town located in northwestern Minnesota. I act as legal counsel for the Red River Valley Sugar Beet Growers Association.

The Red River Valley Sugar Beet Growers Association is a group of approximately 1,600 sugar beet growers who farm within the States of Minnesota and North Dakota. I'm here to discuss with you the problem that arose with the Federal Crop Insurance program for sugar beets during the 1981 crop year. I believe that the problem can be divided into several parts:

(1) What was the Federal Crop sugar beet insurance program intended to accomplish?

(2) Does Federal Crop Insurance view the program in the same light that Congress intended and does Federal Crop Insurance appear to be carrying out the mandate of Congress when the program was created?

(3) Does the policy of insurance issued by Federal Crop Insurance, in fact, insure against the loss that was intended to be covered and exactly what does the policy provide?

(4) What should be done to redress the wrongs brought about by the 1981 program?

(5) How can the 1982 policy and program be changed to eliminate these problems?

(1) WHAT WAS THE FEDERAL CROP SUGAR BEET INSURANCE PROGRAM INTENDED TO ACCOMPLISH?

I have not done a detailed research project concerning the legislative history surrounding the creation of the Federal Crop sugar beet insurance program, but in our conversations with senators, congressmen and their legislative assistants, we have been told that the expanded Federal Crop Insurance program was put into effect when the disaster payment program expired. We believe that Congressional intent clearly was that, with the expiration of disaster payments, adequate Federal Crop Insurance protection should be made available at reasonable rates to the farmers in America as a substitute for the disaster payments. The cost of the program was to be financed by the premiums paid by farmers. I understand that the administration had indicated that it hoped to eventually move toward a system that determines each farm's allowable yield coverage and premium rate on an individual case-by-case basis. Whatever Federal Crop Insurance is and should be should reflect the mandate that Federal Crop Insurance received from Congress at the time the expanded program was created and it is not up to Federal Crop Insurance to make their own decisions as to what Congress intended. It appears perfectly proper at this time for Congress to investigate this matter to see to it that its intent is being carried out in accordance with the legislation that was passed. It is the feeling of most farmers that the program of Federal Crop Insurance for sugar beets could be an excellent program if properly administered and if a sensible policy were written and reasonable rates were charged for the coverage.

(2) DOES FEDERAL CROP INSURANCE VIEW THE PROGRAM IN THE SAME LIGHT THAT CONGRESS INTENDED AND DOES FEDERAL CROP INSURANCE APPEAR TO BE CARRYING OUT THE MANDATE OF CONGRESS WHEN THE PROGRAM WAS CREATED?

Federal Crop Insurance apparently believes that they are in business to collect premiums and to make as large a profit as possible. Attached to this written testimony is a copy of the policy of insurance that was written by Federal Crop Insurance. If you take the time to read the policy, you will see how difficult it is to understand the following:

(a) What does the policy insure against?

(b) What do you get paid if you have a claim?

(c) How is that claim calculated?

(d) How does a farmer reach the various stages referred to in the policy?

When this policy was sold to the farmers they were told by various agents up and down the Red River Valley on both sides of the river between Minnesota and North Dakota and in many, many different communities that they had several elections to make, including: (1) they could elect level one, two or three; and (2) they could choose from various price elections. Then on the face of the policy it indicates that the guarantee will be on a unit basis, that is,

"acres x per acre guarantee x share."

The farmers were led to believe by some agents that if they had a guarantee per acre of ten tons and they elected level three and they got to level three, they would receive their guaranteed tons per acre times their price election. For example, at level three, they would get ten tons per acre times $35 per ton or a payment of $350 per acre.

In spite of this, Federal Crop Insurance feels that price election is really meaningless--as long as farmers get their guaranteed tons per acre harvested on any unit, they're all done--they don't get paid anything. The level election then becomes meaningless, the price election becomes meaningless and nothing matters except that Federal Crop Insurance now has the farmers' premiums and nothing need be paid.

The response to this question from Federal Crop Insurance officials at a meeting of sugar beet growers was,

> "If you're unhappy with what the policy says, sue your local agent."

Isn't that a great way for the United States Government to treat farmers who, in good faith, buy government insurance and then are told,

> "sue your local agents--whatever went wrong is their fault."

I've been practicing law for over 25 years and during that course of time was involved in litigation for and against various insurance companies and have, from time to time, read literally hundreds of insurance policies. I can state unequivocally that the Federal Crop Insurance policy is the most unintelligible policy I have ever encountered. It's virtually impossible to ascertain what the policy covers. I believe that I have some training in this regard and if it's impossible for an attorney to understand it, how in the world can Federal Crop Insurance expect farmers to read it and understand it?

(3) DOES THE POLICY OF INSURANCE ISSUED BY FEDERAL CROP INSURANCE, IN FACT, INSURE AGAINST THE LOSS THAT WAS INTENDED TO BE COVERED AND EXACTLY WHAT DOES THE POLICY PROVIDE?

On February 1, 1982, we received a letter from Federal Crop Insurance in which they claim to interpret the policy. A copy of that letter is attached to this testimony. Even now there are new interpretations. If you will refer to the third paragraph of that letter, it's almost unbelievable what Federal Crop Insurance now claims the policy provides. Even though a farmer might buy stage three coverage, they say:

> "Unharvested acreage can only qualify for either the first or second stage depending upon the stage reached by the crop. Harvested acreage can qualify for either the second or third stage depending upon the percentage of the production guarantee per acre for the third stage that has been harvested from the acreage. To qualify for the third stage, at least 15 percent of the production guarantee per acre for the third stage must have been harvested from each acre in the unit."

Can you believe that anyone would interpret the 15 percent requirement of the policy to be a 15 percent harvesting of each acre in the unit? It should be obvious to anyone that if you can harvest 15 percent of each acre, you ought to be able to harvest the entire crop. The letter isn't much clearer than the policy and you will note all kinds of interpretations of the policy contained in that letter which have no basis whatsoever in the policy.

Sugar beets are a unique crop since the beets are sold directly to a processor and there is no market value for the sugar beets on any given day, either during the course of the growing season or even at harvest time. After the beets are delivered to the processor and the beets are processed into sugar, the sugar is sold on the open market and until the entire crop is disposed of, no one knows what a farmer will receive per ton for his beets.

At the time that farmers were sold this coverage at the rate of $35 per ton, farmers had received approximately $45 per ton for the prior year's crop. Therefore, the coverage they were receiving was substantially less than what they had received in the prior year. Now Federal Crop takes the position that $35 per ton is totally irrelevant and is not to be taken into consideration at all as long as the guaranteed tons per acre, according to their view, were in fact harvested by the farmer, regardless of what price he received for those tons. The stage three coverage that is spoken of in the policy is something that is unattainable and yet the farmer is charged the premium based on level three. The Federal Crop Insurance interpretation of the policy makes it absolutely impossible to attain level three without a full harvest. For example, if the crop is destroyed by hail, drought, flood or freezing, the farmers cannot get level three even though they are insured for it.

I could go on and on with examples of how ridiculous this policy is, but all you need to do is read the policy and you can see that it simply does not clearly state what's insured. If it was intended that this policy be a production guarantee only, that is a guaranteed production of tons per acre, then it could have clearly stated that in the policy, and farmers should not have been led to believe that they were insured for a price per acre resulting from the guaranteed price per ton times the number of tons insured for. Paragraph one in the policy, under "Terms and Conditions," provides as follows:

> "The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table." (Emphasis added)

The words "loss of production" seem clear enough. However, Federal Crop takes the position that "loss of production" is not covered but only a guaranteed production per acre is covered, even though the policy clearly states the insurance provided is for "loss of production." Federal Crop Insurance cites the policy and says:

> "PRODUCTION GUARANTEES, COVERAGE LEVELS AND PRICES FOR COMPUTING INDEMNITIES. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table."

One must look to the "actuarial table" to determine what the production guarantees, coverage levels and prices for computing indemnities are. Then, when we refer to the appendix, the term "actuarial table" is defined as follows:

> "(a) 'Actuarial table' means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county."

Apparently, in order to determine what coverages they have, farmers are supposed to go to some office in their county and look through some forms and related material that, according to the policy, will

> "show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county."

What is a farmer supposed to do when he cannot even look at his own policy to determine the kind of coverage that he has?

We believe it is unfair for a farmer to be required to inspect documents that he has never seen, probably would not understand, and does not even know where to find in order to determine what kind of insurance he supposedly bought.

Federal Crop Insurance even went so far as to bill the farmers in September for premiums that were not due until March, and they didn't even tell the farmers that the premium was not due at the time of billing.

I know of instances where the harvest expense of farmers was deducted from the claim, even though nothing in the policy indicates that harvest expense should be considered in any manner whatsoever as a deduction from any claim.

(4) WHAT SHOULD BE DONE TO REDRESS THE WRONGS BROUGHT ABOUT BY THE 1981 PROGRAM?

Millions of dollars in premiums were collected and one remedy to solve this injustice would be to refund to the farmers the premiums collected for 1981. Then the policy should be rewritten for 1982 so that it can be understood by farmers who are buying the insurance. As the policy now reads, very few sugar beet growers are willing to even pay the premium for such a ridiculous policy. Hundreds of sugar beet growers are dropping their Federal Crop Insurance.

(5) HOW CAN THE 1982 POLICY AND PROGRAM BE CHANGED TO ELIMINATE THESE PROBLEMS?

There is no question but what the concept of Federal Crop Insurance is a good one and the mandate of Congress to Federal Crop Insurance Corporation to provide this coverage was an excellent idea. All we ask is that the policy be written in such a manner that everyone knows what they are insured against and when the coverage comes into play.

If the tons per acre guarantee is used, then the tons per acre guarantee ought to be raised to a realistic figure--not set at such a low figure that a farmer, even with a total loss, cannot even recover back his cost of production. The sugar processors have accurate computerized records of every farmer's production so it is not difficult to get an honest, fair history of the past production. Keep in mind that processors are paying farmers on the basis of beets actually deliverd, so the figures have to be accurate.

In my capacity as an attorney representing sugar beet growers I was called on from time to time to advise individual growers and the Growers Association itself on just what the policy provided. Frankly, I was unable to advise the growers because, not only was it virtually impossible for me to interpret the policy, but no agent that I encountered was able to tell me exactly what the policy provided nor were the Federal Crop Insurance Corporation personnel able to tell me what the policy provided.

If you will refer to the letter attached to my testimony, you will see that Federal Crop Insurance concedes that a misinterpretation of the policy has been made. What is not stated, however, is that this misinterpretation was not just by farmers but was also made by many insurance agents selling Federal Crop Insurance coverage.

I am appearing here in the hopes that we can not only redress the wrongs brought about by the fiasco in 1981, but also to possibly do something which would bring about a re-writing of the policy itself. We are not appearing here today in an attempt to kill the program of Federal Crop Insurance. We are appearing here today in order to be helpful in the hopes that a bad policy can be rewritten so that it is a fair and adequate policy.

We believe that agents who are going to sell Federal Crop Insurance should be better trained as to what the policy provides, how claims are calculated and when and under what circumstances a farmer might expect to be paid for his loss. We believe that to demand this is not unreasonable.

In 1981 the farmers in the Red River Valley suffered from the worst natural disaster in recent memory. The loss to the American Crystal sugar beet growers was, as I have been led to believe, something in excess of $50 million. In spite of the fact that this is the worst loss in memory, only a handful of claims have been paid and for minimal amounts. It is unfortunate that the policy was written in such a manner that even today as I testify, almost no agents can tell us what the farmer bought and what Federal Crop

Insurance sold. I know of very few farmers who know exactly what the policy provides, and when they ask questions, they get various interpretations from various Federal Crop Insurance personnel.

The policy as it is now written should be abolished and a new policy written in its place. We believe that the program of Federal Crop Insurance can be improved to such an extent that it can be what it was intended to be--and that is, to provide farmers with insurance against natural disasters at reasonable rates.

Respectfully submitted,

MORRIS DICKEL

United States
Department of
Agriculture

Federal Crop
Insurance
Corporation

Field Operations
Office, St. Paul

Room 222, Federal Bldg.
U. S. Courthouse
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St. Paul, Minnesota
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January 28, 1982

RECEIVED
FEB 1 1982
DICKEL, JOHANNSON, WALL,
TAYLOR & RUST, P.A.

Mr. Morris Dickel
Dickel, Johannson, Wall, Taylor & Rust, P.A.
Attorneys At Law
Law Building
407 North Broadway
Crookston, Minnesota 56716

Dear Mr. Dickel:

This is in response to your letter of January 4, 1982, concerning various questions in connection with the Federal Crop Insurance Corporation's Sugar Beet Program for the 1981 crop year.

The Sugar Beet Policy is published in the Code of Federal Regulations at 7C.F.R. 430.7. Paragraph 4 of the Policy provides coverage in terms of a per acre guarantee in tons and a percent of sugar content. The initial tonnage guarantee is referred to as the production guarantee. The guarantee applicable to a farm is listed in the county actuarial table. Where there is a loss of production resulting from an insurable cause of loss during the insurance period, paragraph 8(c)(1) provides for adjusting the harvested production by the sugar content factor to arrive at the production to count. The amount of loss is determined by subtracting the production to count from the production guarantee, and multiplying the result by the price selection.

The production guarantee per acre is progressive by stage. The production guarantee applicable to any acreage within a unit shall be that established for the stage reached by the crop on such acreage, as determined by the Corporation. Unharvested acreage can only qualify for either the first or second stage depending upon the stage reached by the crop. Harvested acreage can qualify for either the second or third stage depending upon the percentage of the production guarantee per acre for the third stage that has been harvested from the acreage. To qualify for the third stage, at least 15 percent of the production guarantee per acre for the third stage must have been harvested from each acre in the unit.

Harvested production of sugar beets is adjusted by a factor obtained by dividing the average percentage of sugar in the sugar beets, as determined from individual tests made at the time of delivery to the processor, by the percentage of sugar guaranteed.

The amount of indemnity for any unit is determined by subtracting the total production to count (tonnage) of sugar beets for the unit from the production guarantee for the unit and multiplying the remainder by the price election for computing indemnities selected by the insured. In the event the total production for the acreage in the unit equals or exceeds the guarantee per acre for the unit, no indemnity is due.

The Federal Crop Insurance Corporation is an agency of the Department of Agriculture

A misinterpretation of the Policy has been that insureds should be paid the difference between the dollars received from the processor and the dollar amount per acre (production guarantee x price election) that the Corporation uses in determining the indemnity for the unit. This in effect, is guaranteeing a price per ton at the market place. The Policy does not provide for this.

Sugar beets damaged by freeze during the insurance period which are unharvested, due to an insurable cause, are covered by the Policy. Damage by freeze that did not occur during the insurance period is not an insurable cause of loss.

Upon harvest of the sugar beets, insurance on insured acreage ceases. Except for determinable damage occurring prior to the end of the isurance period, sugar beets which have been harvested and are awaiting delivery to a processor or are awaiting processing at the factory are not covered by insurance.

We hope that this will provide the information needed; however, if we can be of any further service, please advise.

Sincerely,

W. J. Dufresne

W. J. Dufresne
Director

STATEMENT OF MICHAEL WARNER, PRESIDENT, RED RIVER VALLEY SUGARBEET GROWERS ASSOCIATION, FARGO, S. DAK.

My name is Michael Warner, I am the President of the Red River Valley Sugarbeet Growers Association, which consists of 1600 members who raise sugarbeets exclusively for American Crystal Sugar Company, a farmer-owned Cooperative, located in both Minnesota and North Dakota. Our growing area is located 30 miles on either side of the Red River marking the border between Minnesota and North Dakota, from the Canadian border south 225 miles, to the Fargo North Dakota area.

Gentlemen, I would first like to thank you for the opportunity to comment on the coverage that Federal Crop Insurance Corp. has on sugarbeets in the Red River Valley. I, myself, had my entire sugarbeet acreage covered under this Program.

I must also apologize for my absence ... but a rainy spell over the last few weeks has stalled our spring planting, and it is my hope that I will be completing our spring planting at the time of the Hearing. This is the case for all our Board Members, and, in our absence, we have asked our Executive Director, Richard W. Fitzsimons, and our Legal Counsel, Morris Dickel, to be present at this Hearing. I have chosen these men to represent us because of their expertise of our Industry in the Red River Valley as a whole. Their knowledge of the Red River Valley Sugarbeet Industry has been gained as advisors in all aspects of our Organization over a period of time that far exceeds my own. In short, we hope you view them not so much as Legal Counsel and Staff Member, but as we do...expert and articulate spokesmen for the Sugarbeet Growers of the Red River Valley.

At the outset, we wish to make it clear that we support the concept of FCIC, and are at the disposal of all concerned to help make it a better service for all farmers. We are not here to try to dismantle the Program. However, in 1981, and up to date, we had some very serious problems with the sugarbeet coverage FCIC sold for the 1981 crop. Many of these problems remained unsolved, even today.

The single unresolved issue that overshadows all other, and has a vital part in understanding the gravity of the other issues, is the disaster our growers suffered in the harvest of 1981.

On October 20, 1981, we suffered a continuous freeze for five days.... with 40% (2.4 million tons) of our crop still in the field to be harvested. At the time we knew we were in trouble, and the question was, 'whether or not the resulting damage to the crop left it worth harvesting'. As a comparison, this would be like freezing apples and then thawing them out.

Our people researched the literature and their own extensive expertise, and could find no clear answer. The decision was to try to salvage it and process the frozen crop. A decision that probably would not have been made had American Crystal been a stock company rather than a farmer-owned Cooperative.

The verdict is in. We did process the beets, and of the 2.4 million frozen tons, 1.9 million would not make white sugar by themselves.

Gentlemen, this ranks as the worst natural disaster ever experienced in our 50 years of raising sugarbeets in the Red River Valley.

This freeze was also accompanied by very wet harvest conditions, and it sent many growers running to their FCIC agents to check their coverage. Even if we wanted to, there was a real chance we could not harvest the beets because of the wet condition. This also marked the beginning of the confusion surrounding the policy.

We did complete the harvest. After the harvest the Red River Valley Sugarbeet Growers Association ran a survey. The facts I am passing along to you have been taken from that survey:

We learned that one of the most common problems was that many farmers had been told by agents that they were buying a "dollars per acre" guarantee ... not a tonnage guarantee as the contract implies. In other words, they thought they were locking in a dollar figure per acre. Needless to say, this makes the insurance very attractive, and easy to sell.

A great deal of confusion also centered around what constituted a 'unit'. As we understand it, each unit stood alone as a separate contract. If a farmer does not have a clear definition of these two issues, it will have a profound effect on claims payable to that farmer. It is clear that for a farmer to get maximum coverage from his insurance, he should start and complete harvest of one unit at a time. If he didn't know this, he might skip around from unit to unit to harvest a little faster or easier under the conditions we had last fall.

Example: If you have two farmers with equal acreage, (let's say 200 acres), in two units of 100 acres. Farmer #1 knew the rule and harvested 2000 tons from one unit. Farmer #2, who may have been mislead into thinking he had a Dollar guarantee, or didn't know about units ... or both ... harvested 1000 tons from both units. He thought it didn't matter. The freeze hits. Farmer #1 has a claim on his second unit. Farmer #2 has no claim because he dug his tonnage guarantee from both units.

Gentlemen, the fact that many farmers were told they had a dollar guarantee, or were not told about units, or both, did, in fact, cause this to happen to many of our growers.

I wish to assure you that the problems I have just explained are not an isolated few, but were wide spread. We would be happy to make our survey available to you.

During harvest the growers needed to know the answers to questions about the policy, and received confusing, or conflicting, answers. Time was short and these questions needed to be answered in hours, not days, or weeks, or, as is the case of the damaged beets, still remain unanswered. The most common problem centered around the policy stating "what constituted a harvested acre".

Under normal conditions all farmers haul their beets to specially prepared sights where their individual beets are comingled in large piles of thousands of tons, with other farmers' beets. American Crystal has some of the most sophisticated piling equipment in the Industry, which is capable of piling an entire crop of 4-5 million tons (300,000 truckloads) in 10-12 days.

Even though we have this capability - if the weather does not cooperate - one of the grower's last ditch operations (if they fear they cannot get beets harvested if any more rain comes) is to stockpile the beets in the field, and haul them to these special stockpiles later. We were very wet and, aside from the freeze, the wet field conditions caused many farmers to do just this.

The Insured needed to know if these field-stockpiled beets were considered harvested acres. Preliminary response from both Minnesota and North Dakota was conflicting. In the end, all beets were delivered, even those stockpiled, and we still are not sure what the final decision is on field-stockpiled beets.

The next unresolved area of policy centers around the question, "Who decides when it is no longer possible to harvest a unit, and how fast can this decision be made?"

The harvesting of sugarbeets requires many employees (average: 1 harvester operator, 1 defoliator operator, 3 truck drivers), and total harvest equipment valued in a range of $150,000.00 to $200,000.00 for an average grower. Under muddy conditions, which vary dramatically from field to field, the harvest can become very hazardous for both the men and the equipment. "Who decides when the risk is no longer worth it, and how fast can this decision be made?" Many farmers were faced with this decision.

Those farmers who faced the real chance of not being able to harvest a complete unit discovered that to get maximum coverage they had to harvest "15% of their production guarantee from each acre". Again growers asked a question, "what does each acre mean?" The answer they received was, "you must harvest 15% of each square acre. Gentlemen, this is like telling you to mow 15% of your lawn by dividing it into squares and mowing 15% off each square. Not only would you not do it, it would be almost impossible to do.

A few acres were abandoned, and were not harvested. Many agents also neglected to tell growers that if they didn't harvest, their harvest costs (an arbitrary figure dictated by FCIC) would be deducted from their claim.

At the outset of this explanation, I referred to the major issue that Red River Valley Sugarbeet Growers Association policyholders have, which is the level of liability FCIC has for the 2.4 million tons which were frozen in the field. For purposes of explaining these other issues, we have assumed that FCIC will accept liability and pay subsequent claims to eligible policyholders for these beets.

As I prepare this actual testimony, the ruling has not as yet been made. Hopefully, the ruling will be favorable.

There is no doubt in our minds that, based on the information from American Crystal Sugar Company about the quality of these beets, they were not acceptable to American Crystal... a fact they could not know until they tried to process them. The irreparable damage incurred in the field during the 5-day freeze, beginning October 20, 1981, qualifies those beets for claims with FCIC. We did harvest, and attempt to process, the frozen beets. The resulting data shows 1.9 million tons of the 2.4 million tons were not processable to white sugar by themselves. We believe this provides necessary proof for FCIC to pay claims to policyholders on the frozen beets.

As the gravity of the disaster became apparent, we contacted Mr. Will Dufresne, St. Paul Minnesota Regional Director, and Mr. Harold Schonberger, Bismarck North Dakota Regional Director, of FCIC, and asked them to personally assist in developing these facts.

I have tried to outline the confusion that surrounded the handling of FCIC for our 1981 sugarbeet crop. Some facts are clear: our growers insured 112,000 acres, or 40% of our total acreage, and signed contracts for total premiums, in the area of $1,900,000.00. Many found they had not purchased what they thought. Evidently the professionalism the Insurance Industry prides itself in, as representatives of their clients, was missing in many cases. The lack of professionalism may result in several growers missing out on claims for which they could have qualified.

Practical and timely procedural decisions that the farmer needed to know had not been fully developed by FCIC. The proof of this is that after several months most of these issues still remain unanswered. The end result of these problems is that many Red River Valley sugarbeet growers are very dissatisfied with the coverage FCIC has provided. When claims begin to be processed with individual farmers, FCIC staff may be met by what they feel is an unreasonable position by some of these farmers. Those staff people must look at it from the farmer's point of view. He paid, or promised to pay, thousands of dollars in premiums, and was met with a myriad of problems and confusion which are clearly not his fault.

We are committed to help make Federal Crop Insurance for sugarbeets a good workable program for our growers. After our discussions with FCIC officials, we are confident there are competent people there who feel the same way.

We are at a loss to suggest what might be done to correct mistakes made by some agents. However, I think we can be very valuable in providing a "What if this happens?" type format to FCIC, or any information about growing sugarbeets in the Red River Valley that will help them avoid the confusion that surrounded our 1981 crop.

Our intentions are to be constructive.

We thank you for the opportunity given us to present this statement.

STATEMENT OF JAMES R. EATHERLY, ON BEHALF OF AMERICAN BANKERS ASSOCIATION

Mr. Chairman and members of the Committee, I am James R. Eatherly, Chairman and President of First National Bank of Tonkawa, Oklahoma. I am testifying today in my capacity as the Chairman of the Agricultural Bankers Division of the American Bankers Association. Our Association consists of more than 13,000 full service banks, over 90% of the nation's banking community.

While our members range in size from the very smallest to the very largest banks, approximately 90% of them have assets of less than $100 million. Two-thirds of the nation's full-service banks are in communities of less than 25,000 people. In fact, half of these banks are in towns with fewer than 5,000 residents. According to the latest estimates, nearly 60% of these community banks listed agriculture as the single most important source of income for their communities.

Banks are deeply interested and involved in the agriculture sector of the economy. At the end of 1981, commercial banks provided an estimated $30.40 billion in operating loans to farmers and an estimated $8.97 billion in mortgage loans secured by farmland. These figures are large in both absolute and relative terms and indicate the substantial involvement of banks in farm lending. Much of this farm debt is provided by smaller banks in rural areas.

I appreciate this opportunity to present the Association's views on a number of issues related to the Federal Crop Insurance Act of 1980.

Over the past 50 years, the Federal government has operated numerous programs to provide farmers with protection from losses due to natural disasters. Under these programs, the Federal government assumed a portion of the risk of farm losses. Some 20 programs, many of which were developed in response to specific natural disasters, created a confusing and complicated, but comprehensive, system of protection. Inequities in the existing programs were pronounced as some farmers benefited from overlapping programs, while others suffering damage were not eligible for any assistance.

Spurred by dissatisfaction from farmers and program administrators, the 96th Congress took action to revise the Federal Crop Insurance program. The revisions of the Federal Crop Insurance Act of 1980 represent an important change in policy and are intended to establish the FCIC as the primary institution offering farmers protection against low crop yields.

The FCIC, which is an agency of the U.S. Department of Agriculture (USDA), was created by the Agriculture Adjustment Act of 1938. The Act authorized insurance programs for unavoidable crop losses due to adverse weather, insect infestation, plant diseases, wildlife, and other risks. Operating and administrative costs were covered by government appropriations, while premiums were designed to cover claims for losses and to build reserves. Payments for claims were limited to a portion of the value of the crop loss rather than the full value.

The first program was limited to wheat. The Act was amended in 1941 to include insurance on cotton. Legislative changes from 1949 to 1978 have made it possible to expand from insuring seven different commodities in 1949 to 26 in 1978. In 1955 insurance programs were in 794 counties but by 1978, 1,526 counties were insured.

The 1980 legislation was designed to:

1. Expand the coverage of the Federal Crop Insurance program to all 3,300 agricultural counties;
2. Replace disaster aid programs, the most severely criticized of which is the disaster payments program;
3. Expand coverage to all commercial crops; and
4. Assume a portion of the cost of the insurance premium.

Thus, this Act provided the basis for a new subsidized all-risk, all-crop insurance program.

Under a new cost-sharing feature of the program, the government pays the first 30% of the premium covering up to 65% of established yields. This program will cover more crops and provide more protection for many more farmers at less cost to the government than other numerous ad hoc programs in the past. In 1980, some 21 disaster programs on farm commodities were in operation. This financial help cost the taxpayers billions of dollars. The total combined cost of the following four major government disaster programs was $4.2 billion just for 1980 alone:

1. FCIC
2. Disaster Payments Program
3. Emergency Loan Program of the Farmers Home Administration
4. Emergency Loan Program of the Small Business Administration

The insurance premium is now subsidized to reduce the cost of insurance to farmers and to encourage greater participation which allows the Federal government a mechanism for continued subsidization of disaster payments. Although the ABA supports the concept of private funding, we do not believe the FCIC and the private insurance industry are prepared to do so for such a comprehensive crop insurance program. Therefore, we feel, at this time that the government must assume a principal role in funding this program with a long-term objective of reverting to a reinsurance role once the private industry comes forth with a workable plan.

We urge the Committee to call for the elimination of prevented planting and low-yield disaster payments. Since there is no cost to the farmer for participation, the disaster payment program offers free crop insurance. Therefore, if this program is allowed to continue it would reduce participation in the Federal Crop Insurance (FCI) program.

The disaster payment program has several weaknesses: (1) it is inherently unfair in that only producers of certain crops receive disaster payments; (2) it discriminates against the small family farmer -- USDA studies show that large farmers receive proportionately more of the total payments than do small famers; and, (3) it encourages production on marginal lands that are highly susceptible to reduced yields.

Mr. Chairman, we understand that those favoring a continuation of conditional disaster payments state that it is more prudent to provide for a limited continuation of such payments to afford producers of disaster crops some protection until FCI becomes available nationwide.

We urge the Secretary of Agriculture to expedite the expansion of the FCI program and to follow the expansion program coverage schedule as outlined after the passage of the Act. We also believe that those farmers in counties covered by the FCI programs should not be eligible for the disaster payment program. As you know, of the almost 3,300 counties in the continental U.S., FCI is currently available in 1,928 counties. FCIC estimates that by 1984 insurance will be available in all agricultural counties covering all crops.

The following numbers from the FCIC will give you some perspective about the rate at which the program is growing and is expected to grow. The total premium income for 1980 was $175 million. It is now over $350 million in 1981 and is projected to be $600 to $700 million in 1982. The amount of protection will increase from $6.9 billion in 1981 to $8 to $13 billion in 1982. Insured acres will increase from approximately 50 million in 1981 to 85 to 100 million acres in 1982.

We support the government's effort to effect a smooth transfer from the numerous disaster assistance programs to a nationwide, centralized insurance program. Mr. Chairman, the only time we the agricultural bankers prefer to retain authority for disaster payments is in areas where Federal Crop Insurance is unavailable.

We assure you, Mr. Chairman, that if existing forms of crop disaster protection programs are allowed to continue, then Federal Crop Insurance may retain the minor role in protecting farmers against low crop yields that it has played in the past. If these other programs are dropped, then participation in the FCI program may climb as farmers choose to accept a small additional expense, the insurance premium, in place of the possibility of large crop losses.

We have stressed the desirablility of using the private insurance companies wherever feasible. In order to meet the desired expansion rate, FCIC must use the established private insurance companies extensively. Many of these companies are experienced in servicing the rural insurance market. They have the processing capability in place. Most have an ongoing training program and quality control program, and many have expertise in adjusting losses. Some of these companies have the financial capability for sharing a limited amount of losses should they occur. For assuming that risk, these companies will be afforded the opportunity to share a limited amount of profit.

In addition to alleviating the burden of adverse selection, premium subsidies, better financing, and authority to contract with private insurance companies will allow FCIC to augment its sales effort. By providing more lucrative incentives and better support for its own staff and by making use of the extensive network of private insurance agents, FCIC should be able to persuade a higher proportion of eligible farmers to purchase Federal Crop Insurance. The high coverage levels now mandated will be selling points in many areas, and the 30% premium subsidy alone should increase sales. Congress also enhanced FCIC's powers to expand its activities and sales by phasing out or cutting back the competing loan and grant programs.

Mr. Chairman, banking is a business in which one person's deposits become another person's loan. Thus, bankers as lenders are understandably concerned by any event that can affect either deposits or the repayment of loans; i.e., any sort of crop disaster in a farming community can adversely affect both deposits and loan repayments. The fact that an FCIC insurance policy can be used as collateral for loans will give rural lenders a greater incentive to lend.

Higher farm participation could benefit agricultural lenders since farmers have the option of assigning FCIC claim payments to lenders. Lenders have an incentive to serve as catalysts to the promotion of Federal Crop Insurance as they seek to protect the funds they lend to a farming industry plagued by wide variability in production.

It is still too early to know whether the new FCIC's program will perform to the satisfaction of those of us who criticized the old programs and helped create the new one. Much depends on how successfully

FCIC manages its planned rapid expansion and on whether Congress revises the program before it is fully in place. At this time, however, by consolidating most crop-loss-assistance under FCIC's aegis, Congress has attempted to correct the problems of inefficiency and financial volatility that were obviously perceived in the old programs.

The all-risk crop insurance program is in a very formative era. We believe it will be helpful to the Committee and also to banks if FCIC could provide us with a regular report of how the Corporation is doing in terms of its expansion targets and private sector partnership.

As active participants in the rural economy, agricultural bankers, offer our continued support and cooperation for the FCI program.

ABA appreciates the opportunity to express its views and would be pleased to respond to questions from you and other members of the Committee.

In summary, we recommend that:

1. The Secretary of Agriculture expedite the expansion of the the FCI program nationwide.
2. The various forms of crop disaster protection programs be eliminated to allow greater participation in the FCI program.
3. Immediate maximum use of the private insurance sector in marketing be made since an extensive local private agency operation is already in existence.
4. A regular report of how the Corporation is doing in terms of its expansion targets and private sector partnership be made available.

STATEMENT OF MIKE FELT
CHAIRMAN, AMERICAN ASSOCIATION OF CROP INSURERS
BEFORE THE
AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES
SUBCOMMITTEE OF THE
SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY
MAY 21, 1982

Mr. Chairman, and other distinguished Members of the Committee, I appreciate the opportunity to appear before this Subcommittee at the first oversight hearing to be held in the Senate on the implementation of the new Federal Crop Insurance Program.

I have with me Mr. John Joyce, of the National Farmers Union Crop Insurance Division, who will be available for questions later.

I am the Chairman of the American Association of Crop Insurers (AACI) which is composed of insurance companies, insurance organizations, trade groups, and agents' associations which worked closely with Members of Congress in the development of the Federal Crop Insurance Act of 1980.

We strongly believe that the All Risk Crop Insurance Program can be the primary form of Federal disaster protection for farmers, and can successfully replace the complicated and inequitable disaster payments program, if only given a chance to work.

Mr. Chairman, to the best of our knowledge, there is no case where a farmer, who suffers a disaster, would have received higher payments under the old disaster payments program, than he will now receive under an All Risk Crop Insurance policy. The one difference is that the farmer must now pay a premium for the All Risk Crop Insurance policy, whereas, in the past, a select group of farmers, protected under the old law, paid nothing.

I had the opportunity of working with the Members and staff of this Subcommittee, as well as the full Committee, during consideration of the Federal Crop Insurance Act of 1980. AACI has great respect for this Subcommittee and believes the farmer owes a great deal to the Subcommittee for the work it did in developing a viable, comprehensive All Risk Crop Insurance Program.

As you know, the Federal Crop Insurance Act of 1980 provides that the Federal Crop Insurance Corporation (FCIC) shall, to the maximum extent possible:

(1) establish or use committees or associations of producers;

(2) contract with private insurance companies; and,

(3) encourage the sale of Federal crop insurance through licensed, private agents and brokers and give the insureds the right to renew the insurance.

Further, the law directs the Corporation to provide reinsurance to the maximum extent practicable to private insurance companies, reinsurers of such companies, and state or local government entities. We believe that the intent of the law is clear -- private insurance companies and agents should be used to the maximum extent possible in implementing the Federal Crop Insurance Act of 1980.

Mr. Chairman, we believe that the Federal Crop Insurance Corporation is successfully implementing the intent of the law. And, we are keenly aware of the enormous administrative and technical burden this has created for the Corporation. There is no doubt that there are bound to be some problems when one considers the massive undertaking of rapidly expanding, on a nationwide basis, the All Risk Crop Insurance program.

I would also like to point out here that the private industry did not get geared up as fast as it could have to deliver the program in 1981 because of the change in the Administration after the 1980 election. There were new policies to be initiated by the new officials in charge of the program, and there was a settling-in period before the various delivery systems got on track. I believe the real test is starting now. The private insurance industry is trying to take a larger role, and I believe we can do the job.

We further believe that the USDA officials who administer the crop insurance program are doing an excellent job of pulling the Agency out of its present bureaucratic tangle. We believe that the success of the crop insurance program depends upon maximum private sector involvement. The personnel and policy changes that have recently been implemented by FCIC point in this direction.

We believe that the All Risk Crop Insurance Program can be brought properly on-line, in the manner that it was intended by Congress, and should prove to be a successful system of delivering disaster protection to the Nation's farmers.

Mr. Chairman, I would like to say here that the American Association of Crop Insurers is ever mindful of the fact that any crop insurance program can only be successful to the extent that the Nation's farmers are well served.

We believe that the All Risk Crop Insurance program first and foremost, is a farm program, and secondly, it is an insurance program.

It is important that the farmer have the maximum number of alternatives to insure his crops, and that the crop insurance program must be marketed in such a way as to enable the farmer to be able to afford various types of coverages to suit his needs. If a farmer cannot afford or does not want a certain kind of coverage, he should have the alternative of buying what he wants.

We also understand that many farmers are facing the worst economic situation in recent history, and that net farm income is declining to the levels that farmers faced during the Great Depression.

Moreover, in the current depressed state of the farm economy, we know, as you do, that farmers are losing money and are now, more than ever, looking for ways to cut costs by not buying anything they do not absolutely need. In addition, we realize that a few farmers may choose not to buy All Risk Crop Insurance because moisture conditions nationwide are good this year.

However, we think it would be a mistake for farmers not to have crop insurance coverage because they should have some kind of disaster protection. Most farmers cannot afford a drought or hail loss. Even with a good crop, farmers lose money because of low commodity prices, and an uninsured loss would surely put many farmers completely out of business.

Mr. Chairman, we hope that Congress will look at this program and evaluate it for what it is -- a program that insures farmers against natural disasters. We hope that Congress will not look to this program as a solution to the farmer's general economic woes.

The problems farmers are facing involve low commodity prices, high interest rates, inflationary costs to produce farm products, and other things that are far removed from crop insurance. It would be a mistake, in our opinion, to look to the All Risk Crop Insurance program as a solution to the current agricultural economic crisis. Therefore, we hope that Congress will keep crop insurance in the proper perspective when evaluating the program, and approving appropriations for its implementation.

I will now address matters of concern to the American Association of Crop Insurers -- matters I am sure that concern many here today.

We are grateful that you are evaluating the level of success of the program, and we appreciate this opportunity to give you our views. If the private sector is going to deliver this program to our Nation's farmers, then we believe the private sector has a responsibility and a right to suggest improvements.

As I have said, farmers, the Administration, Congress, and the private insurance industry all have a stake in the success of the All Risk Crop Insurance program. Each entity must make judgements, and will use different ways to make these judgments. Careful thought must be given now to those measures of success.

Since October 1980, FCIC's primary goals have been:

(1) extension of availability of crop insurance, especially for the disaster crops and soybeans, and to provide eligibility in all possible counties; and

(2) achieving maximum producer participation.

To date, FCIC's goals have been presented almost exclusively in terms of the percentage of acres eligible for crop insurance. FCIC's concentration on producer participation goals has perhaps prompted some questionable marketing strategy, and has created an unduly narrow basis for measuring the success of the program.

Participation -- Most producers have at their disposal a variety of strategies for managing the risk of crop failure. All Risk Crop Insurance is just one of those strategies and for many producers, has only become recently available.

Producers have managed for years without crop insurance. While the disaster payments program was essentially universal for the eligible crops, the record shows that few producers, on a nationwide basis, were dependent upon it, and producers of ineligible crops managed without it.

It has been widely, and we believe mistakenly, assumed that the elimination of the disaster payments program would result in a massive move to sign up for crop insurance. The underlying error in this assumption comes from overlooking the history of risk management strategies amply used by producers whose crops were ineligible for either crop insurance or disaster payments. But even where there was eligibility, many farmers insured against hail only because it was the most likely cause of significant loss, and the least expensive to buy.

Producers have always taken risk probabilities into account -- perhaps without a great deal of sophisticated analysis -- and have survived on their estimates of what the growing season weather will be.

We believe it is time to realize that producers will regard All Risk Crop Insurance as no more than one risk management tool which they will use from time to time. Not all producers have a need for it, and some will want it only some of the time.

Therefore, we believe producer participation is only one measure of how well the program is accepted. The usefulness of producer participation as a measure of success depends upon how realistically the participation goals are set. We believe one of the great dangers of excessive preoccupation with producer participation goals may be an inclination to compromise actuarial soundness for saleability.

Availability -- Crop insurance should be available for the significant crops wherever produced. Therefore, it is reasonable to regard both crop and geographic availability as a measure of the success of program development. As you know, FCIC is working toward the goal of making crop insurance available in 3,000 counties nationwide.

Coverage -- AACI believes that as the new Individual Yield Coverage (IYC) program develops, producer complaints that the level of coverage is inadequate will evaporate. Tailoring coverage to the individual producer's needs has been a goal of the FCIC for years. If this feature is fully developed, which we believe it will be, for both cash grain and feeding operations, it will be a significant measure of success of the crop insurance program.

Efficiency and Economy -- The cost of the program to the Government is legislatively mandated, and some portion of the cost is currently chargeable to expansion activity. We believe there are some costs in administering the program which can be saved through standardization and simplification.

It appears that FCIC management is now accepting the fact that the All Risk Crop Insurance program is now a large scale business operation, in contrast to its early experimental stages, when perhaps some costly and wasteful habits were formed. We firmly believe that the USDA officials who control the FCIC program can and will make these much-needed improvements in program administration.

Public Awareness -- the program cannot be regarded as a success unless farmers in all eligible counties are aware of its availability. Producer awareness can be determined by measures other than how many producers sign up for crop insurance, or by what percentage of eligible acreage is insured. We believe that some form of a marketing study can be done that will indicate producer awareness of the All Risk Crop Insurance program.

Stability and Reliability -- Stability and reliability of the All Risk Crop Insurance program is needed now. Farmers need to know they can rely upon crop insurance as a risk management tool if they want it, and when they want it. Stability and reliability are not achieved by the constant assertion that there are "problems."

We hear that there are problems, but these problems are not clearly defined or identified. We hear that the program is "not working", without further identification as to why. This kind of resistance to the program sounds like the usual resistance anyone would have to change, or to a new idea.

We believe that the FCIC, along with the private insurance industry, should receive recognition for their tremendous accomplishments to date in the brief span of time since the Act was passed. It is our feeling that Congress should recognize that stability and reliability have been successfully achieved in a very short period of time. But we know this does not excuse any of us from making further advancements.

Involvement of Private Insurance Companies -- The All Risk Crop Insurance program is commonly seen as moving toward maximum private insurance industry selling and servicing, with FCIC's primary role as a reinsurer. The extent to which private insurance companies assume the primary delivery role, and the risks, is a very reasonable yardstick for measuring program success.

Since March of last year, I am happy to report that a total of 35 companies and insurance organizations have now entered into reinsurance agreements with the FCIC. There were only about 19 or 20 companies signed up this time last year. These companies are determined to help make the All Risk Crop Insurance program a success. Further, the FCIC is predicting that about 30 to 50 reinsured companies will handle about 50 percent of the total premiums during crop year 1983. We believe that the FCIC is moving in the right direction by encouraging the private insurance industry to take as strong a role as they possibly can.

Financial Results -- A requirement of the Act is that, ultimately, premiums charged, with the addition of the Federal subsidy, must be sufficient to pay for losses. This requires an adequate rate structure, and a rateable insurance product.

In conclusion, we know that FCIC has been understandably bogged down in the logistics of standard insurance functions, and with the sheer magnitude of program expansion. Notwithstanding the problems of growth, some remedies are possible. A large scale operation such as the expansion of the All Risk Crop Insurance program cannot continue to endure non-essential changes which require using the limited resources of operations and data processing personnel.

The All Risk Crop Insurance program should be stabilized by reducing operations to maximum simplicity. FCIC must be reoriented from a small scale, experimental program to a large scale business operation. Another remedy could be to expedite the dispersion of FCIC computer operations to private insurance companies. Insurance companies long ago realized the necessity of having good data processing capabilities close to the point of delivery. We also feel that another step toward controlling costs could be to consider relocating some of the regional and field underwriting offices to FCIC's Kansas City National Office.

Mr. Chairman, the American Association of Crop Insurers believes that the Federal Crop Insurance Corporation, under the vigorous leadership of its Manager, Merritt Sprague, and Under Secretary of Agriculture Frank Naylor, is moving ahead to make the new All Risk Crop Insurance program more successful than even its strongest advocates had anticipated. We are confident that USDA's officials will look toward the private sector to help them make this program the success it should be. We believe the FCIC has a chance of meeting its goals, and the goals of this Subcommittee, only if it continues to rely on the private sector.

We are committed to the implementation of the Federal Crop Insurance Act of 1980, and we are willing to further commit our resources, both physically and financially, to fulfill the goal of supplying adequate crop insurance coverage to our Nation's farmers.

It is the belief of the American Association of Crop Insurers that the most equitable, least expensive, long-term program of dealing with all natural disasters is through a nationwide, multi-peril crop insurance program, backed by the Federal Government with maximum private insurance industry cooperation and participation.

We hope that Congress will continue to support these goals.

STATEMENT BY
ROBERT N. TYLER
OLD REPUBLIC GROUP
Chicago, Illinois

Before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, of the Senate Committee on Agriculture, Nutrition, and Forestry
Re: Multiple Peril Crop Insurance
May 21, 1982

Mr. Chairman, members of the Committee, my name is Robert Tyler. I am a Vice President of the Old Republic Group of insurance companies. Old Republic Insurance Company, Old Republic Life Insurance Company, International Business & Mercantile REassurance Company and Old Republic Lloyds Insurance Company of Texas have all been deeply involved with insurance in the farm area. Three of those companies, Old Republic Insurance, IB&M RE and the Lloyds have been deeply involved in the specific areas of crop hail and multiple peril crop insurance; thus our very real interest in the subject of these proceedings. With me today is R. Bland Lee who heads our considerable activities in the farm and ranch areas of the nation and who is familiar with all facets of our undertaking.

It is important, we believe, to make a general statement of our position with regard to multi-peril crop insurance as a prelude to this short statement. First and foremost, we believe that the program is and should be considered and administered as a program for the primary benefit of farmers and ranchers and with only a secondary emphasis on considerations of insurers and agents. Thus, we believe in the point of view that what is good for the farmer/rancher is good for the rest of us and that it should be paramount in any consideration of this subject.

More specifically we have three general recommendations:
First, we believe that this insurance program is the greatest boon to agriculture that has ever been made generally available because, for the first time, farmers and ranchers can guarantee the repayment of their production costs with adequate insurance. One observed weakness is the complaint in a number of areas that the insurance is too "expensive" for most individual farmers and ranchers to purchase. As might be expected, the result is that the projected participation by the farming community has not been realized, -- this has to be addressed and overcome.

Second, we believe that the insured yields by acre are not realistic and arrived at by procedures too cumbersome for most farmers and ranchers to easily comprehend. The net effect is that many farmers and ranchers will not purchase the product because of the unacceptable relationship of insured yields to individual farmer's needs and previous production yields. This area needs to be simplified.

Third, we recommend further fine tuning to make the overall insurance more acceptable to all concerned. For example, an F.C.I.C. premium subsidy where F.C.I.C. lacks credible actuarial data to the degree that unacceptably high premium rates are generated might be considered to make it possible for the average farmer or rancher to buy the coverage. This problem needs to be addressed along with some possible subsidy of premiums when disaster strikes. It is thought that the premium should be subsidized to a greater extent in a disaster year, and probably for the following year because the farmer or rancher will still be suffering the economic trauma of his loss. This embraces the simple insurance theory that in a good year an individual can pay a greater percentage of income for premium than in a bad year when he has already suffered a loss.

Again, we want to pledge our total support for the program; we think that it is well on the way to being accepted nationally. While there are problems, the problems are solvable as already suggested. In addition, the product needs to be defined with more clarity so that farmers can really understand how it works and what it costs. Administration and the subsidy mechanism need to be simplified. We believe that the multi-peril insurance should be sold as a separate package from crop hail insurance. Crop hail has been proven over the years and is readily available through private insurance sources in all states. Future elimination of crop hail insurance from the multi-peril policy will automatically make the multi-peril insurance more marketable because of its ultimate reduction in price. The farmer should be allowed the opportunity of purchasing crop hail insurance, or multi-peril insurance or both. The decision should be his to make in light of what best serves his need. There is no good reason to continue crop hail insurance in as part of the multi-peril policy and certainly no reason for the federal premium subsidy.

Regardless of anything else, the elimination for the need for disaster payments will help not only the farmers but will help the whole country in the long run. In future as experience is gained, it is quite possible for this program to fund itself without subsidy and will provide farmers and ranchers a way to conduct their business in a business-like manner that guarantees the repayment of cash outlays necessary to put in a crop in today's agriculture. In addition lenders will have additional comfort as to the repayment of the debts.

Thank you, Mr. Chairman, Mr. Lee and myself are available to answer questions as best we can and otherwise to offer our services to this Committee in any way that seems proper to further the success of the F.C.I.C. program.

STATEMENT OF DANIEL J. MORRISSEY, EXECUTIVE VICE PRESIDENT, LOHMAN BROS., INC., GENESEO, ILL., REPRESENTING INDEPENDENT INSURANCE AGENTS OF AMERICA, INC.

Mr. Chairman, my name is Dan Morrissey. I am Executive Vice President of Lohman Brothers, Inc., an insurance agency in Geneseo, Illinois. I am also Chairman of the Farm/Agri-business Committee of the Independent Insurance Agents of America, Inc. IIAA is the nation's oldest and largest insurance producer group with 34,000 member insurance agencies representing 126,000 licensed agents and over 200,000 employees nationwide.

Many thousands of our farm state agents have for years sold and serviced crop insurance, and continue to do so under the federal crop insurance program. Our national association, and several of our farm state affiliates have worked with the FCIC, both before and after enactment of the federal crop insurance program, to develop an FCIC federal crop insurance contract designed to reflect prevailing industry standards and to facilitate the sale of federal crop insurance through private agents licensed under authority of existing state law.

For these reasons, IIAA has a keen interest in the federal crop insurance program, and played a key role in working with the Congress to help produce a program that attempts to harmoniously combine the strengths of federal government and private sector participation.

By reducing the federal program's levels of coverage and premium subsidies, by mandating the use of private insurance agents and companies wherever possible, by making optional the farmer's inclusion of crop, fire and hail coverage in the federal plan, and by requiring a federal reinsurance program through which private carriers could offer all-risk crop cover to farmers, Congress greatly improved an initially flawed plan, and won the support of most of the private crop insurance industry for this large and needed effort to replace costly and duplicative disaster payments.

These private sector provisions, their encouragement and implementation by the FCIC, and their acceptance by private carriers and agents continue to be crucial to the program's future success.

Despite a shaky start—the result of funding cuts in the 96th Congress, unresolved issues associated with the reinsurance contract, uncertainty about and unawareness of the program among farmers, and initial wariness between some regional FCIC offices and local agents associations—the program now has an opportunity to improve and expand to fully meet the needs of America's farmers.

Nevertheless, several issues continue to threaten to impede the program's progress and ultimate success, and thus need to be examined by this committee as it performs its all-important oversight responsibilities. IIAA is grateful for the opportunity to participate in this examination, and believes that all interested parties ultimately will benefit from this committee's scrutiny of FCIC.

We would like also to commend the Federal Crop Insurance Corporation, with which IIAA has worked closely and cordially in the past and will continue to work in the future. In that regard, IIAA has already met with Undersecretary of Agriculture Naylor, and FCIC Manager Merritt Sprague. These two gentlemen continue the fine tradition of interest in, and understanding of, issues of concern to all of us who participate in the crop insurance program.

Mr. Chairman, many groups have come before you in the last two days to state their concern about the poor quality of agents who are currently selling and servicing federal all-risk crop insurance.

IIAA is very pleased that the FCIC Board chose to act on this important issue at their May 11 meeting, and require state licensing of agents beginning in the 1984 crop year. I have reviewed the Administration testimony for this hearing, and can tell you today that beginning with the 1984 crop year the farmer will enjoy far more professional advice and service from the agent who sells him his crop insurance.

You see, licensed insurance agents are professionals. We are community oriented small business people with a large stake in the well-being of the local economies we operate in.

IIAA's motto is, "We serve you first." It's not just our motto, it's true.

I noticed that one of yesterday's witnesses, Morris Dickel of the Red River Valley Beet Growers Association, alleged that some "agents", and I put the word agents in quotes, had misrepresented the contents of the crop insurance policy.

The current situation, with unlicensed, untrained personnel selling the product, would certainly allow for that sort of abuse. I was prepared to cite other abuses to you today as well.

The new licensing requirement will eliminate that sort of problem.

When agents are licensed under state law, not only must they meet certain professional requirements, but the consumer has recourse to the state insurance commissioner's office should any abuses occur.

We are proud of our professionalism.

IIAA recognizes that the licensing requirement places more responsibility on our shoulders. As a national association, we place our considerable resources at the disposal of FCIC, and this subcommittee, and we will work together to ensure that the training program will be effective.

As Chairman of the Farm Agri-Business Committee of the Association, I am prepared to make recommendations to our Executive Committee that will help this partnership get off on the right foot.

We accept both the challenge and the responsibility of the Board's decision, and are prepared to offer our services to the American Farmer.

As for excluding hail and fire coverage from the federal all-risk policy, IIAA believes such a policy would be unwise at this time. Understand that IIAA takes a back seat to no one in its support for private over federal insurance programs and initiatives. Understand too that IIAA conditioned its support for the program in place on the optional exclusion of crop fire and hail coverage for those farmers who could conveniently separate that coverage from all-risk protection, and who preferred to continue to purchase crop hail insurance from a now thriving and highly competitive private market.

But the requirements for sustaining—and ultimately for improving on--the private/federal mix incorporated in the current program, and the fact that separate crop hail coverage is not an efficient alternative to many farmers who would otherwise purchase all-risk federal coverage, recommend a continuation of the current program options for at least the remainder of this year.

The federal crop insurance program most of all needs a chance to work. It also needs this subcommittee's vigilance in preserving and increasing the private sector's role in the program. Without the private sector's personnel, expertise, marketing skills, and efficiency, what began as an ambitious, desirable experiment will almost surely fail. And with that failure will come the increased costs and federal intrusion so contrary to the sentiments expressed during the 1980 elections.

Mr. Chairman thank you for the opportunity to testify. I'd be happy to answer any questions.

STATEMENT OF NEAL L, MIESBACH, NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS

Good morning, Mr. Chairman, and distinguished Members of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices. My name is Neal L. Miesbach. I am an independent insurance agent from Omaha, Nebraska, with considerable experience involving the Federal crop insurance program. I am here on behalf of the National Association of Professional Insurance Agents (PIA).

PIA is a national trade association representing more than 38,000 independent property and casualty insurance agents in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Canada.

I am an ex-officio member of PIA's Federal Affairs Committee and their Special Representative to the National Crop Insurance Council. I also serve on the Advisory Board of the American Association of Crop Insurers.

PIA commends the Subcommittee's distinguished Chairman for holding these oversight hearings on how successfully the Federal Crop Insurance Corporation (FCIC) has responded to comply with the Federal Crop Insurance Act of 1980 (Act). We welcome this opportunity to present our positions and observations on the progress of this new program.

PIA was active in political efforts to develop a sound crop insurance program during the 96th Congress and concentrated our lobbying on structuring a statutory framework that would include private insurance companies as risk bearers, marketers and servicers of a major portion of the insurance involved, and utilize licensed independent insurance agents as the sellers and servicers of this line of business. After extensive negotiating by a broad range of interested parties, the language that finally became law provided for actuarially sound all-risk crop insurance that would eventually cover all commercial crops, based on a unique partnership between the FCIC and the private insurance industry.

The Act provided that private insurers, reinsured by the FCIC, would handle insurance functions to the maximum extent possible. This approach encourages utmost efficiency by using their wealth of insurance and marketing expertise.

Farmers were given a choice by the Act on the purchase of fire and hail insurance. They could obtain such coverage either from the FCIC or "opt out" and procure fire and hail policies from a private insurance company.

The Act requires that licensed independent insurance agents be used to the maximum extent possible as insurance producers, grants farmers the right to renew their crop coverage with such agents, allows agents to service these policies, provides agents with reasonable commissions and indemnifys agents if they are sued for errors and omissions which are the fault of the FCIC or its contractors. Utilizing state licensed private property and casualty agents would eliminate the need for a large new bureaucratic sales force requiring considerable training to become effective. The use of the private insurance sector should result in a considerable saving to the government.

The Act terminated the Federal crop disaster programs for farmers at the end of 1981.

All in all, the Act was a responsible step in the right direction and PIA supported it and continues to do so. This is not to say, however, that the implementation of the FCIC program has not had its share of problems.

At this point, I would like to emphasize that PIA is well aware that Federal crop insurance is a program designed first and foremost to protect the American farmer and provide him with adequate financial security against natural hazards and disasters that could precipitate a serious economic loss if not covered by the program's insurance. Farmers participating in the FCIC program should enhance the stability of the local economy in a given agricultural area. Nonetheless, the crop insurance program is not now, nor was it ever designed to be, a cure-all for the broad range of economic problems that on occasion adversely impact upon agriculture. Currently, many farmers are experiencing very serious financial trouble caused by low prices for the commodities they produce, ever rising production costs, double digit interest rates and long term general inflation. Serious problems indeed, but they are not the type of problems that can be solved by a crop insurance program that is designed to cover hazards such as hail, wind damage, plant disease and other natural unavoidable causes.

PIA, therefore, hopes that during these deliberations the Subcommittee will keep the FCIC effort in perspective and evaluate any shortcomings within the realities of its practical limitations. The problems currently facing American agriculture cannot realistically be blamed on the FCIC, the all-risk crop insurance program and/or the private insurance interests thereinvolved.

Like any new comprehensive undertaking, the FCIC is experiencing its share of growing pains as it simultaneously has increased the number of crops covered, closed down FCIC sales outlets and shifted this function to private resources, expanded the utilization of reinsured private insurance companies, worked on developing an adequate promotion and informational campaign, developed an administrative and managerial program, and expanded the computer capacity needed to implement this effort in an effective manner.

PIA is certain that in each of the areas just mentioned and probably in others, Members of the Subcommittee and your Colleagues in both Chambers have received constituent complaints regarding crop insurance. The insurance industry has added its voice on selected issues of special interest.

Still, much progress has been made since the Act became effective in September of 1980. An early controversy involving the issue of whether participating insurance companies and agents were "federal contractors" subject to Executive Order No. 11246 covering employment practices has been resolved.

A new application form that covers all insured crops is now in use that replaces the old system of a separate form for each crop.

The FCIC has closed down its sales offices and transferred the lists of insured farmers to private insurance agents interested in participating in the program.

The FCIC and insurance groups have cooperated to spread the word about the FCIC program, using regional meetings to enlist additional insurance agents to sell all-risk crop insurance.

A new sales commission schedule is in the works to resolve problems certain insurance agents were experiencing.

There has been a recent FCIC decision to implement new billing and collection policies for premiums.

In 1981, only 19 FCIC reinsured insurance companies participated, but this year 35 companies and insurance organizations have entered into binding reinsurance agreements. The FCIC is predicting that the number of reinsured companies could reach 50 during 1983 and handle up to one-half of the premium volume produced.

This represents real progress in PIA's opinion and points the way to the program's future success because it involves ever increasing numbers of private insurers and agencies that have the requisite insurance, marketing and sales expertise already in place as functioning successful enterprises. PIA believes that if this trend continues remaining FCIC problems can be solved as more and more of the program is turned over to the private sector and FCIC management is refined.

On March 24, 1982, the Secretary of Agriculture announced that the FCIC would be transferred from the jurisdiction of the International Affairs and Commodity Programs Agency to the Small Community and Rural Development Agency headed by Under Secretary Frank W. Naylor, Jr. Shortly thereafter, the then incumbent President and Chairman of the Board of FCIC resigned their positions. On April 12th, a Final Rule was published in the FEDERAL REGISTER that transferred responsibility for the general supervision of the FCIC to Under Secretary Naylor and delegated to him the responsibility to appoint such officers and employees of the Corporation as may be necessary. The FCIC now has its third top management team since the Act became law. The insurance industry and the FCIC staff are waiting with anticipation to see what new changes may be forthcoming.

PIA wishes the new team all success in their efforts to improve the management and efficiency of the Federal crop insurance program. We stand ready to work with Under Secretary Naylor to accomplish these goals.

The issue of prime concern to PIA, that we would like the Committee to understand and Under Secretary Naylor to resolve, involves the use of unlicensed agents by the FCIC to sell Federal crop insurance. Section 507(c)(3) of the Act provides that, "..... the Board shall to the maximum extent possible, ... (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: . . . . ." PIA wholeheartedly supports this sound public policy.

Working at cross purposes with Section 507(c)(3) is Section 506(k) which states that the FCIC, "..... may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements." This language has been interpreted by Department of Agriculture legal counsel as allowing the FCIC to contract with unlicensed individuals, at its discretion, to sell Federal crop insurance. PIA has received many complaints from our members around the country that the FCIC has signed up persons who are not licensed by the state insurance regulatory authorities to sell directly for the FCIC.

This has the effect of bypassing the licensed insurance producer emphasis required by the Act and displaces the traditional private agency-insurer relationship which is the heart of the American Agency System. These unlicensed agents often lack the technical insurance expertise and/or sales experience that is the hallmark of the professional insurance agent. Indeed, PIA has received reports that some of these unlicensed agents often lack the technical insurance expertise and/or sales experience that is the hallmark of the professional insurance agent. Indeed, PIA has received reports that some of these unlicensed FCIC agents have no insurance background whatsoever and their only previous sales experience involved selling brooms, brushes and household supplies on a door-to-door basis.

PIA cannot believe, when reviewing the language of the Act in its entirety, that it was the intent of the Congress that unqualified sales personnel should be used by the FCIC to sell Federal crop insurance. The American farmer certainly deserves to have his crop insurance transaction handled and serviced by a qualified licensed agent. PIA can assure the Subcommittee that there is no shortage of licensed agents. Consequently, to comply with the intent of Congress, the FCIC must alter its recruiting qualifications to conform with the spirit of the Act.

PIA believes that the unlicensed agent issue can be resolved by Under Secretary Naylor. We strongly urge him to adopt as official FCIC policy that all insurance agents producing for the Corporation must comply with applicable state insurance agent licensing requirements or be terminated. This management policy should be implemented as soon as possible.

Congressman Cooper Evans of Iowa has introduced H.R.5864, a bill to amend the Act to prohibit private agents and brokers from selling Federal crop insurance unless they are licensed under the applicable state insurance law. Congressman Evans also wrote the Secretary of Agriculture asking him to implement this policy administratively.

PIA is also concerned about the controversy that continues to surround the so-called fire and hail insurance opt out provision in Section 508(b)(2) of the Act. As the 1980 Act moved through the legislative process, the fire and hail insurance companies, whose main business was insuring crops against these perils, became convinced that the proposed subsidized all-risk FCIC coverage might put them out of business. In an effort to allay their fears, a provision was included in the Act that allowed farmers to delete the fire and hail coverage contained in the FCIC policy and substitute a fire and hail policy, underwritten by a private company, for at least an equal amount of coverage. To utilize this fire and hail opt out the farmer must provide the FCIC with satisfactory evidence that private fire and hail coverage has been procured that complys with FCIC requirements. The FCIC will then make a corresponding reduction in its premium charge within certain statutory limits.

For a number of reasons, this opt out option has not worked as envisioned by its supporters and is utilized by very few farmers because of little public information concerning its availability, the red tape involved in proving that the farmer has obtained adequate limits of private fire and hail coverage, and the inadequacy of the statutory premium reduction in many instances. Consequently, this issue is still a heated political controversy within the private crop fire and hail insurance industry.

Last September 16, 1981, the Crop Insurance Research Bureau (CIRB), National Association of Mutual Insurance Companies (NAMIC) and National Association of Independent Insurers (NAII) testified in detail on this issue at the crop insurance oversight hearings held by the House Agriculture Committee's Subcommittee on Conservation, Credit and Rural Development.

On March 8, 1982, CIRB, NAMIC and NAII jointly submitted a position paper to the FCIC advocating a proposal to remove all fire and hail coverage from FCIC all-risk crop insurance. Their goal is to get the government out of the fire and hail insurance business by prohibiting the FCIC from insuring these perils. Crop fire and hail coverage would then be a decision for the farmer to make in the private insurance market.

On May 5, 1981, the American Association of Crop Insurers published, with certain reservations, a position paper supporting the removal of fire and hail coverage from FCIC jurisdiction.

PIA would strongly recommend that the Senators on the Subcommittee and their staff study these documents in detail because they provide a wealth of information on the opt out controversy.

There have recently been indications that the crop fire and hail insurers are seeking a legislative remedy for their problem and may soon mount a lobbying campaign to accomplish that end during the remainder of the 97th Congress.

PIA supports the ultimate goal of removing fire and hail coverage and the opt out provision from the Act, but we sincerely question the timing of this effort and believe that the remainder of the 97th Congress is not the time to seek any amendments to the Act. The political climate is currently such that any amendment to the Act brought to mark-up could become a vehicle for ill-conceived and far-ranging modifications to the basically sound FCIC program enacted in 1980. It is essential that the current program must be given sufficient time to resolve the growth problems mentioned by witnesses at these hearings and stabilize. This goal can be achieved by effective administrative procedures and hard work by all involved parties. It would be a disaster for the crop insurance program to be turned into an election year political football. Any amendments to the Act should not be considered until the 98th Congress when, hopefully, the agrarian economy will be in better shape.

It appears to be a natural phenomena in Washington, D.C. for bureaucratic agencies to strive to expand their share of influence and scope of operations. This is well illustrated by the maneuvering of factions within the Agricultural Stabilization and Conservation Service (ASCS) and their allies to have ASCS assume the administration of the Federal crop insurance program. They argue that ASCS already has a history of farm and county yields on the various crops insured, that the FCIC refuses to utilize this data effectively and attempts to determine losses using their own criteria even when planted acreage has been ASCS verified, that ASCS offices familiar with local agricultural conditions are located in all rural areas, and many farmers approach them seeking information on crop insurance. Consequently, ASCS should run the program and sell Federal crop insurance.

First, should the farmer, especially under current economic conditions, be forced to deal with another bureaucratic upheaval in the program's implementation? The answer is obviously "no" because the farmer needs stability in obtaining crop insurance to protect him from natural disasters. This is his sole recourse since the old disaster payments program has been phased out.

Second, does the ASCS have any working technical insurance management experience? Again, the answer is "no." They basically would be starting from scratch and the entire program would go back to the beginning in terms of managerial growing pains and personnel orientation.

Third, do we need an ever-expanding ASCS bureaucracy to market and sell Federal crop insurance? "No." The main thrust of the ASCS approach appears to involve using ASCS civil service employees, operating out of ASCS offices, as the primary sales mechanism. Such bureaucrats have no experience selling crop insurance. This would require an extensive new training program for an ever-expanding group of ASCS civil service agents. This is not a step forward. It would be an expensive inefficient step backward toward a large government program totally financed and serviced at either considerable additional expense to the American taxpayer or by increasing the Federal deficit.

The current FCIC programs avoid the use of large numbers of bureaucrats to administer and sell crop insurance. The Act authorizes a proper supervisory role for the FCIC with private reinsured companies and licensed independent agents conducting the general underwriting, marketing, sales and service functions. These are private insurance resources that need no additional training, technical support, plant or equipment. They are ready to function efficiently as soon as they enter into a contract with the FCIC.

There is no logical justification, whatsoever, for allowing the ASCS to participate in the Federal crop insurance program in either a managerial or sales role. PIA opposes any effort to establish ASCS in these capacities.

One problem that has hindered the development of the FCIC program from its inception has been the lack of adequate promotion and publicity to inform farmers about the availability of this protection. PIA feels that an effective advertising campaign to promote all-risk Federal crop insurance is essential. The FCIC has a key promotional role to play in this regard.

PIA was, therefore, disturbed to learn that FCIC advertising and promotions aimed at enlightening farmers about the Federal crop insurance program have stopped since the new management assumed their responsibilities recently. PIA trusts that this is only a temporary hiatus and that FCIC promotional activities to encourage expanded levels of farm producer participation will again be pursued with renewed vigor.

Even with the problems that have arisen, the FCIC program will succeed if the Corporation's management and insurance industry participants are given the opportunity to work together to develop effective, efficient solutions. PIA pledges its cooperation in this effort. Federal crop insurance can become a working example of how the government and private sectors can effectively function together to deliver an essential service consistent with sound public policy at the lowest possible cost to the consumer and the taxpayer.

Thank you, Mr. Chairman, for providing this forum.

* * *

STATEMENT OF CHARLES BAXTER, VICE PRESIDENT AND GENERAL MANAGER, KANSAS FARM BUREAU MUTUAL INSURANCE CO., AND CHAIRMAN, CROP-HAIL COMMITTEE, NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

I am Charles Baxter, vice president and general manager of the Kansas Farm Bureau Mutual Insurance Company, and chairman of the Crop-Hail Committee of the National Association of Independent Insurers. My company is participating in the multi-peril crop insurance program as a direct writer which reinsures with the Federal Crop Insurance Corporation. We are one of many NAII companies which are participating through reinsurance or master marketing agreements.

NAII is a voluntary, non-profit trade association of 512 member companies. We are the largest association of this type in the country. The property-casualty companies that belong to the NAII write about 40 per cent of the automobile insurance in the United States, about 25 per cent of the homeowners insurance, and large portions of other coverages, including crop fire and hail.

I am here today to warn you, in the strongest possible terms, that the federal crop insurance program is at a critical management stage of development for the government, for insurers and for farmers. Later in my statement, I will give you specific examples of the management problems my company has encountered, and I assure you, our experiences are not unusual. Unfortunately, they are typical.

To overcome these problems and to make the federal crop insurance program work the way it was intended, we believe that two modifications are vital.

First, fire and hail coverages should be removed from the FCIC policy.

Second, private carriers must have an opportunity for reasonable profit under the federal all-risk reinsurance contract.

The record will show that we were opposed to the amendments of the Federal Crop Insurance Act. Our concerns about the cost of the FCIC program are being borne out with each day that passes. Expert insurance actuaries have calculated that by 1986 the cost of the program will be more than $1billion a year. Our opinion now is that the billion-dollar loss will be reached well before 1986.

The irony in these rapidly escalating costs is that one of the main reasons advanced for amending the Act was to save money by phasing out the disaster relief program. It now appears that FCIC expenditures are already exceeding the cost of disaster relief. For Fiscal 1983, the FCIC appropriation is $717 million. In all the years of its operation, the disaster relief program never cost more than $700 million. We realize, of course, that the FCIC program is broader than disaster relief was ever intended to be, but the fact remains that, contrary to the promises made on behalf of the FCIC program, there will be no savings, only greater and greater costs, as the level of participation in the crop insurance program -- now at 30 per cent -- rises to the projected 50 per cent.

We also objected to the amendments because we saw no justification for increasing the giveaway in an already richly subsidized FCIC program. By doing so, the government entered into direct, unfair and unhealthy competition with private business. Old habits, including those of governmental expansion, die hard. But personally, I am still amazed that the government could have encroached so far, especially in view of the fact that government interference is at the root of many of our economic troubles and the voters know it. We chose our last two Presidents partly because of their promises to stop the government from smothering business, profits and jobs.

Nevertheless, the amendment is law and we respect the efforts of all concerned to make the program workable. Many companies have joined the program to be part of that cooperative effort.

But you should be aware of the truth. Companies that have signed on are not participating because they believe in the program as it presently operates. They are taking part merely to keep their book of business from being plundered by the unlicensed, untrained and unqualified salesmen who have been designated as federal contractors by the FCIC. In one case, I understand that a group of soap salesmen is out selling crop insurance.

They are able to do it, of course, because of the ridiculously low rates made possible by the overly liberal FCIC subsidy. The difficulties will worsen when the losses and operating expense fall due for payment. We are seeing it already. In 1981. the FCIC paid out $107 in loss payments for every $100 of premium it took in, in addition, administration expenses had to be covered. No business could operate that way. And 1981 was a good crop year. A bad year, or even an average one, will generate truly disastrous losses.

Of the 44 states where FCIC operates, 27 have been continuously in the red. FCIC has been giving away what is really free insurance in those states since, as a nation-wide program, it can average out the losses of one state against the profits in another. But a private insurer, who writes only in one state -- and there are many of them -- cannot do that. It must sink or swim on the experience in its state of operation. This is the crucial difference between the FCIC program and the private crop insurance system. We cannot possibly compete against an organization of vast special privilege whose sales agents can undercut a private company and take away its business.

It is worth noting, too,that the unequal treatment built into the FCIC extends beyond insurers to farmers as well. The subsidy they receive varies across the country depending on the mere location of their state or political clout.

The drafters and backers of the amended crop insurance program may see it as a genuine joint venture between government and industry, but that is not how the program is actually working out in the field.

First and foremost, the permitted offer to carve out fire and hail coverage is an empty fiction. Our company has sold 150 all-risk policies. Only three of our policyholders opted to delete fire and hail coverage, which was greater than the national average of one per cent.

As for management problems, recently 1,003 insurance contracts were assigned to our company after the closing of FCIC offices. Let me give you some examples of what we found:

1. 130 files were transferred with requests for cancellation by the insured. They wanted out of the program. Many were reinstated only because they missed the cancellation dates, which is well in advance of the crop planting date. Some insureds will even go to the expedient of filing zero acreage reports to quit the program. Meanwhile, we are trying to straighten out a mess with farmers who are understandably irate.

2. A number of files we received indicated that no 1981 premium had been paid, which can be construed as another way to cancel. We were asked to act as a collection agency for the FCIC and get these farmers to pay up.

3. The number of "lost" files is suspiciously large. The insured advises us that he has transferred to our company, but FCIC says it has no record of the file. We received a letter dated February 12, 1982 telling us that the FCIC National Service Office in Kansas City "lost" the 1981 Spring crop acreage reports.

4. We received 104 inactive files, which we discovered after considerable time and expense. They had to be returned to the FCIC Regional Office.

5. On several 1982 wheat files, there is no acreage report on file with the FCIC National Service Office.

6. For some time, we could not process 1982 wheat files because we did not have the 1981 experience factors from the National Service Office. They should have been available shortly after January 1 of this year. When we finally received the experience factors, we got a memo later telling us they were wrong.

7. We have acreage reports with an endorsement marked: "Signed under protest."

8. We have had to turn down applications for insurance on Spring seeded barley, which the Regional FCIC Office had authorized to be written at Fall seeded rates. But the National Service Office says there is no coverage or rates for Spring seeded barley.

9. Files have been transferred to our company with an outstanding loss pending against FCIC and no acreage report has been received by the company.

10. A status report was supposed to be attached to each file, but practically none of the 1,000 files we received had them, so we had to start at the beginning on each one.

11. Finally, we received a reported loss on a field of wheat that was seeded by aircraft. This is not an acceptable wheat agricultural practice in Kansas, but apparently, no one at FCIC questioned its validity.

Our observations of the administration of FCIC lead us to believe that it is a complete, dismal failure. If private industry operated in a similar fashion, we would be out of business in a month. In our opinion, if the FCIC does not get its program up and running in a businesslike fashion in very short order, the whole system will crumble, the costs will be colossal, and the farmers and the insurance industry will be irreparably hurt.

Perhaps these administrative problems can be solved by management and personnel changes. We certainly support the efforts of the FCIC to improve its operations, and we have helped them to straighten out things before. However, the government's handling of other insurance programs is not encouraging. The flood insurance program, for instance, began with private industry accepting about 10 per cent of the risk and the government assuming about 90 per cent. In August, 1977, when the Federal

Insurance Administration took over that joint federal-and-industry effort, the private insurers had expanded their share to about 40 per cent of the risk and the government's share had dropped to 60 per cent; so the program was working as Congress intended. Yet, that so-called partnership was arbitrarily ended by bureaucratic fiat.

Today the GAO reports that the flood insurance program is currently in such disarray that its operations cannot be audited properly, and the government is making overtures to bring private industry back in to straighten out a program, which the industry had been running satisfactorily in the first place. We would hate to see a similar fate overtake the crop insurance program.

In any event, even if the FCIC's management difficulties are ironed out, the best management in the world could not correct the basic flaws in the program; namely, the unequal, lavish subsidies and the crowding out of private carriers.

I have heard it said, usually by sales agents who want to protect lucrative, easy commissions, that the federal crop program should be looked on as a farm assistance measure. The implication is, of course, that anything that's good for the farmer, even a giveaway, is good for the nation.

My company has been in the business of helping farmers for years, and we hope to continue for many more. But we know, as the farmers do, that government handouts always end by sapping the vitality of an industry and damaging, if not destroying, the private enterprise system. Maybe some of us would like to give the farmers everything we can think of, just as others would like to do the same for the unions, inner city residents, the elderly, small businessmen or big businessmen. There is a huge constituency of recipients and middlemen who would applaud that folly.

But it is our belief that in recent elections the public has spoken quite clearly in favor of restraining government, and we submit that the nation is not served by more handouts; nor is the farmer served, in the long run, by the demise of private crop insurers and their replacement by government bureaucracies.

Let us be clear on the choices before us. The agricultural industry will not be ruined if fire and hail coverage are carved out of the all-risk policy and if private insurers are afforded an opportunity to make a decent profit. On the contrary, farmers will be better served by licensed, professional insurance experts.

But if the opposite choice is made ... if the government persists in lavishing under-priced insurance on farmers, making it impossible for private insurers to survive, then the government will have killed off another sector of the economy that produces profits, pays taxes and creates jobs. Every sensible insurer knows that the government must be part of a workable crop insurance program. Only the federal branch has the breadth and financial power to protect against the truly catastrophic crop loss. But we respectfully submit that the government's role should be limited to furnishing reinsurance backup for the rare catastrophic occurrence. Nothing in the history of our democracy makes it necessary or wise for the government to compete with private enterprise, particularly by stacking the deck so heavily in favor of a government-run program, as is the case with FCIC all-risk coverage. I don't see how the government can say it wants to nurture a return to economic health, and then try to do it by replacing the only source of that health -- the private industry.

We believe that the crop insurance program is balancing on a knife edge at the present time. The Congress can do an immense service to the farmers and to the private enterprise system by correcting two fundamental flaws in the program:

One, fire and hail coverage should be eliminated from the all-risk coverage by legislative mandate, so that private insurers have a chance to compete fairly while offering the farmer the benefit of professional, experienced insurance protection.

Two, the FCIC program must use adequate rates on a state-by-state basis to avoid the evils of cross-subsidization, and by that I mean the unfair competition and favoritism that inevitably ensue when we rob Peter to pay Paul. Simple fairness to all concerned demands actuarially sound rates.

These two changes will guarantee a manageable and effective crop insurance program.

STATEMENT OF BILL BRACEY, BLYTHEVILLE, ARK., REPRESENTING NATIONAL ASSOCIATION OF CROP INSURANCE AGENTS

Mr. Chairman, I am Bill Bracey of Blytheville, Arkansas. I represent the Southeastern United States on the Board of Directors of the National Association of Crop Insurance Agents. With me is Judy Anderson, the Association's Assistant Executive Director. Judy is the Association's technician and expert on crop insurance procedures.

On behalf of the Association, we appreciate this opportunity to appear, to explain our role and to touch on our difficulties. In the Federal Crop Insurance Act of 1980, Congress directed that the FCIC's Board of Directors "...shall to the maximum extent possible... encourage the sale of Federal crop insurance through licensed private insurance agents and brokers...." It is because of this direction, which placed responsibility for marketing federal crop insurance in the private sector, that we exist.

The Association is a non-profit corporation organized to promote the maintenance of a continued crop insurance program to serve the farmer and to cooperate with the Federal Crop Insurance Corporation and the private insurance industry in the promotion, expansion and marketing of crop insurance. The Association's 950 private insurance agents and brokers, of whom approximately 90% are licensed, serve over 90,000 farmers. The Association's Board is composed of 12 directors elected by the membership.

Our Board members have approximately 230 collective years of crop insurance experience with one director having been associated with crop insurance since 1938. We have member agents in almost every state in the continental United States; many are farmers as well as agents and thus bring to their jobs a knowledge of farming as well as insurance. Incidently, only 29 of our agents came to us directly from the FCIC and in every case they came only after the FCIC closed its field offices and discharged them by a reduction in force.

The Association, among other things, provides its members with the training and supervision required by the FCIC. We seek to ensure that sales literature and sales practices conform to applicable standards and that farmers receive continued service after a sale has been made. In this regard, the Association's record keeping system is fully automated so we are able to provide our agents with current, complete information necessary for reporting to the FCIC and for servicing policyholders. Finally, because we are a non-profit organization, our members receive the highest commission rate paid by any master marketer.

For the 1982 crop year, the Association's members renewed over $95 million in premiums from the preceding crop year and wrote new business generating $23 million in premiums. This translates into approximately 15 million acres of farmland insured by the FCIC through Association members and a face amount of $2 billion in insurance written. These amounts represent approximately one-third of all federal crop insurance in force. We are convinced that farmer participation in the 1982 crop year would have been materially higher but for certain problems we encountered. It is on these problems that I would now like to touch briefly.

The most frequent and troublesome difficulties that the Association confronts emanate from the FCIC's computer center in Kansas City. Because of delays in processing documents that must be filed, primarily the acreage report and claims for losses, the entire insurance process suffers and with it the confidence of farmers and the reputation of the FCIC. In large measure, much of this delay and error has resulted from a too rapid institution of too many procedural changes. Based on the statements of FCIC officials, however, we understand that this phase of rapid change is over until enough time has elapsed to digest the events of the past year.

The Association has a substantial financial stake in the success of the 1980 Crop Insurance Act and in its administration by the FCIC. Moreover, because we are confident that these matters will be corrected, with another large investment we have expanded our staff and the scope of our automated services to satisfy our obligations under the 1983 sales and service contract with the FCIC.

In conclusion, all of us have listened to the needs of our nation's farmers. We can assure you that the need for federal all-risk or multi-peril crop insurance is greater now than it ever has been. All-risk insurance has become, and each year it becomes more so, a necessary farm management tool - one that the farmers use and one on which their creditors rely. Without federal all-risk or multi-peril crop insurance, the impact of the present economy on our rural area would be considerably worse. Now is a time for understanding and patience, not change and panic.

We sincerely appreciate this opportunity to testify and familiarize you with our Association and the role that we are playing in making this program a success. We will be happy to answer any questions that you may have or furnish any additional information you may desire.

[The following material was submitted by Bill Bracey, National Association of Crop Insurance Agents, see p. 72 for the oral presentation of Mr. Bracey.]

LUND LEVIN & O'BRIEN,
Washington, D.C., January 25, 1982.

Mr. MELVIN E. SIMS,
Chairman, Federal Crop Insurance Corporation,
Washington, D.C.

DEAR MR. SIMS: On January 6, 1982, the Federal Crop Insurance Corporation (the "Corporation") announced the adoption by its Board of directors of a new schedule of advance commission payments on the sale of federal crop insurance policies for 1982 spring seeded crops. This new schedule is fully described below. In essence, however, it repudiates the Corporation's historic schedule of advances and reduces and delays the commissions the Corporation will advance to its contractors and subagents. The new scheduled retards the sale of federal crop insurance.

On behalf of the National Association of Crop Insurance Agents (the "Association"), we request the Board of Directors promptly to hear the Association, to reconsider its decision and to amend its fiat to conform to the law.[1]

The Association is a non-profit corporation organized for the promotion, expansion and marketing of crop insurance in a cooperative effort with the federal government and the private insurance industry. Pursuant to an agency sales and service contract, the Association sells federal crop insurance through a present membership of 850 insurance agents who are located throughout the United States. In 1981, the Association's first year of business, its agents wrote FCIC premiums in excess of $100 million, or approximately 64 percent of the amount written by the entire Corporation in 1980.

The success of these agents in the sale of federal crop insurance is a direct measurement of the Corporation's success in its administration of the federal crop insurance program. The federal crop insurance program cannot be successful if agents (and master marketers) are not successful in the sale of crop insurance; conversely, agents and master marketers cannot successfully sell crop insurance unless the Corporation successfully administers the federal crop insurance program. Precisely because of this mutual dependence, the Board's action which discourages and punishes agents also frustrates and thwarts the administration and success of the federal crop insurance program.

As more fully discussed below, we believe that the commission payment schedule adopted by the Corporation is unwarranted and contrary to law. The Corporation's decision subverts the manifest intent of Congress and contravenes the specific language Congress adopted to implement its intent. The decision discriminates between private contractors and, indeed, is contrary to the Corporation's own interest. For these reasons, the Corporation's action is arbitrary and capricious.

In 1980, the Congress amended the Federal Crop Insurance Act to enlarge its scope and redirect its thrust. This amendment resulted, as described in H. Rept. 96-430,[2] from a Congressional dissatisfaction with the fact that, while the federal crop insurance program was 40 years old, it remained "essentially a pilot program" and from a perception that the insurance program should be available nationwide.

The Congress recognized that the participation of farmers in the federal crop insurance program was essential to the success of the program and that the historic barriers to that participation had to be breached. To accomplish this breach, the Congress directed a multi-faceted frontal attack ". . . aimed at gaining a high rate of [farmer] enrollment at the earliest possible date" and directed the Corporation to mount a "strong promotion sales effort and farmer education programs", both of which had theretofore been deficient.

To ensure that its program would succeed and that individuals would be accountable for any failure, Congress gave a specific mandate, not to the Corporation, an impersonal institution, but to each of its Board Members. Congress directed:

> In the administration of this chapter, the *Board shall*, to the *maximum* extent possible, . . . (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers. . . . 7 U.S.C. 1507(c). Emphasis added.

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[1] The Association has been advised by other master marketers that they support the Association in this objection to the Board's action.

[2] Unless otherwise noted, the quotations herein are from this Report.

This section orders each member of the Corporation's Board to encourage, "to the maximum extent possible", the sale of federal crop insurance through sales and service contractors such as the Association. The Board has no discretion in this matter. Whether its Members personally disagree with the Congressional perception of the ills that plagued the federal crop insurance program or whether they disagree with the remedy Congress prescribed for those ills is irrelevant. Congress charged each Board Member with an immutable obligation to accomplish "to the maximum extent possible" the statute's directive and each Board Member, upon assuming office, assumed a liability in this regard. Congress did not grant Board Members, individually or collectively, the authority to overrule its judgment and to alter or repeal the statute. And, yet, this is precisely what the Corporation's Board Members are doing.

The announcement of the commission payment schedule for spring planted crops appears to be another step in an attempt to supplant the law's policy and mandate with a different approach, an approach based on personal perceptions and individual interests and a program conceived in secret deliberations.

The first step in this attempt was the Corporation's December 31, 1981, publication of a list of farmers who had been insured and serviced by the Corporation in 1981. This list, published we believe in violation of 7 CFR §§ 0.735–20(h) and 1.119, which are the Department of Agriculture's own regulations, included the names of farmers who at the time of publication were serviced by agency sales and service contractors, not by the Corporation. Those names should not have appeared in the Corporation's publication and they would not have had the Corporation honored its Departmental regulations and if it had published a current listing.

Perhaps the Corporation did not publish a current list because it could not. Perhaps the disarray in the Corporation's computer center, discussed below, made compliance with the Department's regulations impossible. In any event, the Corporation illegally published an outdated, misleading list and, thereby, created chaos. As a direct result of the Corporation's precipitous act, agents are losing clients; farmers are unsure of the status of their insurance coverage; and unethical insurance practices involving misuse of the list are rampant.

And now the Corporation has taken the second step.[3] The Corporation's longstanding policy has been to make advance commission payments. These advances have not been a gratuity; to the contrary, they are an accepted (and expected) practice in the normal course of the Corporation's business. It is this historic practice as well as its new mandate to encourage "to the maximum extent possible" the sale of federal crop insurance that the Board would now scorn.

In the middle of a contract year, in disturbance of an historic practice and in disruption of private businesses, the Board has adopted a policy that simultaneously delays and reduces the advance commission payments that private agents can receive, thereby stifling their ability and incentive to sell federal crop insurance.

The Corporation's previous policy is to pay sales agents 50 percent of the anticipated commissions on new business upon acceptance of applications and 50 percent of the anticipated commissions on carryover business immediately following the policy automatic renewal date. An additional 30 percent is to be paid as acreage reports are processed. Contrariwise, with respect to spring seeded crops, the Corporation will pay its first payment, a 50 percent advance, only after it has processed acreage reports. Thus, at the time agents should receive a 50 percent advance, they will receive no advance and by the time they should have received an 80 percent advance, they will have received only a 50 percent advance. This change at this time flaunts the desire and the direction of Congress.

Congress specifically directed the Corporation to deal with commission agents in "good faith" so that they will be "willing to put forth their best and most conscientious effort toward a successful program". Does the revocation of an historical practice in the middle of a contract year constitute "good faith"? How does the delay and reduction of advance commission payments encourage the "best and most conscientious effort"? How does this unprecedented step encourage to any extent, let alone to the "maximum extent possible", the sale of federal crop insurance?

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[3] Step 3, of course, is the Board's anticipated "Improved Financial Management Plan" whereby farmers will be charged interest for tardy premium payments and agents' payments will not be advanced at all. Because comments on this "improvement" will be invited in the Federal Register, it suffices now to say that the Board appears embarked on a program designed to end the private sale of federal crop insurance. We already know the catastrophic affect this winter may have on farmers and we are equally aware of the economic hardships that argue in favor of maintaining the longstanding practice, followed by some private insurance companies, of advancing commission payments. Yet, the Board marches to an alien drum.

The Board has given no answers to these questions. Its terse announcement offered no explanation or justification for its decision. The Board neither relied upon nor explained away the statute it must implement and enforce. Without inviting public comment, the Board deliberated in the secrecy of "executive session", and issued a wrenching change in policy.

Presumably because it was preoccupied with the secret conception of a new commission schedule, the Corporation failed to implement its long accepted advance payment procedure, described above, which is applicable to fall seeded crops. Though it states in its September issue of "All-Risk Update" that commissions "will be advanced," no advances had been made as of January 6, 1982, the date of the Corporation's announcement.

Fall crop insurance policies were sold or renewed in September and October, 1981, and reported thereafter. Applications for new policies were long ago accepted and the automatic renewal dates on carryover business have long passed. Yet, by January 6, the Corporation had not paid the 50 percent advance. Moreover, the acreage reports on fall seeded crops should have been processed by now; if they have been, this advance premium, too, is overdue.

These inequities will now be compounded because advance payments will be contingent on the Corporation's ability to promptly and accurately process acreage reports. And this is a contingency the Corporation cannot satisfy; the Corporation is unable to process its acreage reports.

The breakdown of the Corporation's computer center in Kansas City has been documented and publicly acknowledged by the Corporation. It is a continuing embarrassment and frustration to the Board, to the Congress and to the farm industry. The single most important and most numerous document that the Corporation must process is its acreage report and it is the inundation of these reports that have rendered impotent the Corporation's computer center. This crisis is so severe that the Corporation is now planning to change computer hardware during a two-year transition period.

In the midst of all of this, the Board has embarked on a new commission schedule that needlessly increases the burden on its computer center. If the commission schedule for spring crops were to be permanent, perhaps the burden the Board has imposed on the Corporation could be understood, but the schedule is not a permanent one. It is interim, effective for spring crops only. The Board, as noted above, has already announced an "improved" schedule for fall 1983 crops.

Transition follows transition and the stability the Corporation is to provide for farmers it cannot even provide for itself. The corporation is dismantling its county offices; personnel are unavailable; files are in transit; questions are unanswered; and uncertainty is pervasive. In some cases the Corporation has informed policyholders that their applications have been accepted but has not advised them of the amount of their coverage or the amount of the premiums. In other cases, farmers have planted their crops and suffered a loss before the Corporation confirmed their coverage; and, finally claims have gone unpaid for months after a loss was suffered. All of these things have generated a high rate of cancellation of federal insurance for the 1982 crop year.

Sales and service agents alone will suffer the hardship of the Board's interim commission schedule for they alone look to the Corporation for advance commission payments. As a result of the Federal Crop Insurance Act of 1980, and in reliance on the Corporation's historic method of advancing commission payments, many organizations incurred large debt obligations to finance their start-up costs as master marketers, a business that first came into existence with the passage of the Act. Unlike reinsurance companies who receive an advance reimbursement from the Corporation for 80 percent of their program and administrative expenses, which presumably may include amortized items, master marketers must depend for their cash flow on the continuation of the Corporation's historic policy of making prompt and regular advance payment of commissions. These payments, in turn, are dependent entirely on the good faith of the Board and, thus, it is on this good faith alone that master marketers must rely.

As if to acknowledge and assuage this dilemma, the Corporation, in its September issue of "All-Risk Update", stated:

> The master marketing approach establishes a base for the company on which to build. As the company (or the association) gains experience and builds capital, they [sic] will be encouraged to enter into a Standard reinsurance Agreement with FCIC instead of an Agency Sales and Service Agreement. (p. 8)

How does the Board's action advance this stated objective? How does the Board envisage a master marketer establishing a "base . . . on which to build" under the spring commission schedule? How will the master marketer build the capital that the Corporation seeks built? How will the master marketer be encouraged to enter into a Standard Reinsurance Agreement? The Board's silence in the face of these questions demonstrates the absence of any rational explanation or lawful necessity for an action that introduces an element of unfairness that places master marketers at a competitive disadvantage.

When Congress enacted the 1980 Amendments it sought to eliminate ". . . political and economic pressures . . . [and] . . . a patchwork maze of assistance programs". The Board's advance payment schedule for spring seeded crops does not eradicate these evils; it embodies them. The Board should abandon its schedule; it should return to its historic practice of advancing 50 percent of anticipated commissions upon the acceptance of applications for new business and upon the automatic renewal date of carryover business and advancing a further 30 percent as acreage reports are processed. Finally, the Board should implement its historic schedule and pay the monies that are long overdue. This is the first step necessary to restoring the integrity of and public confidence in the Corporation.

Because of each Board Member's responsibility and potential accountability for his participation in the secret deliberations that resulted in the Corporation's January 6 announcement, I have taken the liberty of mailing each Member a copy of this letter.

Sincerely,

LARRY M. ROSENSTEIN.

LUND LEVIN & O'Brien,
Washington, D.C., May 28, 1982.

Mr. MERRITT SPRAGUE,
Manager, Federal Crop Insurance Corporation,
U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SPRAGUE: On behalf of the National Association of Crop Insurance Agents, we are submitting the enclosed memorandum in opposition to the Federal Crop Insurance Corporation's proposal to levy interest on late premium payments for federal crop insurance policies. As this memorandum demonstrates, the Corporation's proposal and its adoption of interim rules governing wheat, barley and oats, in the words of the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 706), are:

> (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
>
> (B) contrary to constitutional right, power, privilege, or immunity;
>
> (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
>
> (D) without observance of procedure required by law; [or]
>
> * * * * * * *
>
> (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

Under the Freedom of Information Act we have ascertained that private meetings were held and "extensive negotiations" were conducted between representatives of the reinsurance industry and your immediate predecessor and, perhaps, other Corporation officials. (See, e.g., Board Memorandum No. 6, October 2, 1981). Because of the range of subjects that may have been discussed and even agreed upon, there is a clear possibility that the Corporation's interest rate proposals were also discussed, if not even conceived, in such meetings. Further, the Corporation's former Chairman has stated that the reinsurance industry charges interest on late premium payments. This statement does not appear to be based on information gathered in a public proceeding.

If either of these matters is the case, the Corporation's record in this rule making proceeding is not complete. It deprives the public of its right to comment fully and it deprives the judiciary of its ability to review.

Pursuant to the requirements of the Administrative Procedure Act and of *Home Box Office, Inc.* v. *Federal Communications Commission,* 567 F. 2d 9 (C.A.D.C., 1977), cert.den. 434 U.S. 829, reh.den. 434 U.S. 988, we request the Corporation to include in the public record a list of all ex parte communications made to any consultant, employee, officer or director of the Corporation or to any consultant, employee or appointee to the Department of Agriculture by any member of the public together with the details of such ex parte communications regarding the regulations at issue. We also request that the public record in this matter be kept open so that we may respond to any ex parte communications.

Finally, please be advised that if the Corporation adopts its ill-conceived rules, we will renew this request for the period from June 1 to the date of the final Corporation action so that if a court reviews this matter it will have the full benefit of the interests influencing the Corporation's thoughts and decisions.

Sincerely,

LARRY M. ROSENSTEIN.

UNITED STATES OF AMERICA BEFORE THE DEPARTMENT OF AGRICULTURE FEDERAL CROP INSURANCE CORPORATION

MEMORANDUM ON BEHALF OF THE NATIONAL ASSOCIATION OF CROP INSURANCE AGENTS

The Secretary of Agriculture is charged by law to advise the President, the Cabinet and the Congress on "policies and programs designed to improve the quality of life for people living in the rural and non-metropolitan regions of the Nation" (7 U.S.C. § 2204(a)). Under the Secretary's "general supervision" (7 U.S.C. § 1505(a)), the Federal Crop Insurance Corporation ("Corporation") is charged by statute "to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance . . ." (7 U.S.C. § 1502).

The Secretary and his Corporation have turned their eyes from the words of Congress and they have turned their ears from the cries of their constituency. Agriculture is in the midst of a Depression. Farm incomes on a 1967 dollar basis are below those of 1930-1934 and bankruptcies are tolled in an anvil chorus of auctioneers' gavels. Yet, the Secretary and his Corporation have devoted their attention exclusively to their own financial needs.

"To improve the debt management practice of [the] FCIC" (47 FR 13826, April 1, 1982), to accelerate the Corporation's premium collections, to reduce its extension of credit and to improve its cash flow (Impact Statement, 47 FR 13826) the Corporation would impose an 18 percent annual penalty on some crop insurance premium payments deemed by administrative fiat to be late.[1] As with other ignominious Department policies, this charge, too, will accelerate the flight from the farm and the disintermediation of agriculture capital.

On behalf of the National Association of Crop Insurance Agents ("Association"), we will demonstrate, in Part I of this memorandum, that the Corporation is without authority to impose a penalty on late payments and that such a penalty contravenes the Federal Crop Insurance Act, as amended ("1980 Act"). The penalty rescinds, for those farmers who purchase federal crop insurance (but not for those who purchase private crop insurance), the subsidy on premiun payments that the law orders the Corporation to pay "[f]or the purpose of encouraging the broadest possible participation in the insurance program . . ." (7 U.S.C. §1508(b)(3)). And the penalty contradicts and undermines the mandate of Section 1507(c) to encourage to the "maximum extent possible" the sale of federal crop insurance through independent agents and brokers.

In Parts II and III of this memorandum we will demonstrate that in its haste to promulgate its illegal rules the Corporation violated the rule making requirements of the Administrative Procedure Act. The Corporation did not publish a timely notice of its proposed "Combined Crop Insurance Regulations". The Corporation has deprived the public of its statutory right to comment on regulations and its right to have its comments considered. These rights have been preempted by prejudgment and by the precipitous adoption and implementation by the Corporation of the very regulations on which it purports to seek comments. Moreover, the Corporation violated the requirements of Executive Order 12292 and the Secretary of Agriculture's instructions for rule making. The Corporation failed to consider an alternative rule proposed by the Department of Agriculture's Inspector General and other options proposed by a Departmental and Office of Mangement and Budget Task Force, each of which options, in the absence of any articulation to the contrary, appear to be less costly to the nation's farmers.

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[1] The Corporation's "proposal", in an amendment to its Combined Crop Insurance Regulations, states:

"(d) Interest will accrue at the rate of one and a half percent (1½ percent) simple interest per calendar month or any part thereof on any unpaid premium balance starting from the first day of the month following the month in which the average reporting date for the crop occurs . . .: *Provided,* That such interest will not be charged if the full amount of the premium is received by the Corporation within 30 days from the date of the first premium billing." (Emphasis in original).

Finally, in Part IV, we will demonstrate that the Corporation's proposal is but another step in its ill-conceived, unconcealed plan to foster the private reinsurance industry and undermine the federal crop insurance delivery system designed by Congress. The Corporation has ceased advancing compensation to private agents, but not to reinsurance companies and it would now require agents to collect the debts of the federal government. Indeed, to benefit private reinsurance companies, the Corporation has even gone so far as to absolve them of their affirmative obligation under Executive Order 11246 to employ women, Blacks, the handicapped, Vietnam veterans and other protected minorities.

The Association is a non-profit corporation organized for the promotion, expansion and marketing of crop insurance in a cooperative effort with the federal government and the private insurance industry. Pursuant to an agency sales and service contract, the Association sells federal crop insurance through a present membership of 950 insurance agents located throughout the United States. In the Association's first year of business, an anniversary only recently marked, its agents sold crop insurance protection to over 90,000 farmers covering 14 million acres of farmland; the $2 billion of insurance the Association wrote raised for the Corporation over $115 million in premiums. The Association, its members and the farm constituency they serve will be damaged irreparably if the Corporation persists in this putative proceeding.

I. THE CORPORATION LACKS STATUTORY AUTHORITY TO CHARGE INTEREST—SUCH A CHARGE IS CONTRARY TO THE FEDERAL CROP INSURANCE ACT

The 1980 Act contains no authority for the Corporation (or the Department) to charge interest on the premiums it collects. The authority granted the Corporation with respect to premiums is "[t]o fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient . . . " (7 U.S.C. § 1508(b)(10)) and to collect "[t]he producer's premium, or share thereof . . . at such time or times, [which premium] shall be secured in such maner (sic), as the Board may determine" (7 U.S.C. § 1508(b)(4)). The statute and its legislative history are silent with respect to interest. No inference of authority can be drawn either from this silence or from the Corporation's stated statutory purposes.

When Congress desired the Department to charge interest on loans or advances of credit, it said so specifically and it stated the maximum rate of interest that could be charged. For example, the Agricultural Credit Act of 1978 authorizes interest to be charged on real estate loans and specifies the rate (7 U.S.C. § 1927); the Emergency Agricultural Credit Adjustment Act of 1978 authorizes interest to be charged on operating loans and on emergency loans and it specifies their respective rates (7 U.S.C. §§ 1946, 1964). Accordingly, no inference can be drawn that Congress delegated by silence the same authority it delegated elsewhere by specific mandate.

Indeed, that such an inference does not exist was recognized and acknowledged by an Office of Management and Budget ("OMB")/USDA Task Force, which published a study on the feasibility and advisability of imposing an interest charge on late premium payments. The Task Force admonished the Corporation that: "Congress should be informed of proposed policies *before* they are implemented." (Emphasis added).

This admonition is predicated on the absence of statutory authority. If such authority existed, the admonition would have been unnecessary and unmade. The Task Force spoke because the statute is silent.

The Corporation cannot contend, and to date it has not, that interest charged on late premiums contributes to the Corporation's statutory objectives. The purpose of the Corporation and of the statute it administers are: "to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance." (15 U.S.C. § 1502).

Interest charged on late premium payments will not imprve the economic stability of agriculture; they will not increase the soundness of the crop insurance system; and they will not be used for research in devising insurance. Thus, the Corporation cannot pretend that its statutory authority to collect producers' premiums at such time as its Board determines carries with it the additional authority to levy interest on premiums that are not paid when due.

In the absence of authority to charge interest, the Corporation's charge is a tax. The stated purpose of the Corporation's charge "is to improve the debt management practices of FCIC". Thus, the interest charge is an "enforced contribution to provide

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for the support of government", the definition of a tax.[2] The Corporation, however, has no authority to levy a tax. This is a power reserved to the Congress. It is not a power that Congress implies; and it is not a power that can be inferred from silence.

The uniform interpretations of the Independent Offices Appropriation Act of 1952 (31 U.S.C. §483a) by the OMB and the Supreme Court demonstrate that the assessment of interest on crop insurance would be an unconstitutional tax. The Appropriations Act, as here pertinent, authorizes federal agencies to prescribe a "fee, charge or price" for any "benefit, privilege, . . . or similar thing of value . . . provided . . . to or for any person" which is determined "to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts. . . ."

The OMB (the then Bureau of the Budget) construed this Act in still extant Circular No. A-25 (1959). The OMB stated:

> . . . a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:
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> > Enables the beneficiary to obtain more immediate or substantial gains or values . . . than those which accrue to the general public (e.g., . . . crop insurance). . . .

The Circular this reinforced the Corporation's existing authority to charge a fee. i.e., a premium, for crop insurance policies. That, however, is all the Circular did for the OMB also made it clear that the authority to charge a fee did not embrace an authority to charge interest. Thus, the OMB Circular stated:

> Except for exclusions specifically made hereafter, the provisions of this Circular cover all Federal activities which convey special benefits. . . . The specific exclusions which continue to be governed by separate policies are . . . interest rates. . . .

The OMB's statement is unequivocal. Interest is not permitted to be charged by the Appropriations Act; interest must be authorized "by separate policies." As shown above, the authority to charge interest has been granted the Department in "separate policies," e.g., 7 U.S.C. §§ 1929, 1946 and 1964. Those "separate policies", however, are silent with respect to crop insurance and the 1980 Act which governs crop insurance does not contain a "separate policy" with respect to interest.

Without a specific statutory mandate authorizing both the assessment of interest and the rate of assessment, such as in the statutes cited above, the assessment of interest is abusive; it is unconstitutional.

In *National Cable Television* v. *U.S.*, 415 U.S. 336 (1974), the Supreme Court parsed the Appropriations Act and specifically addressed the degree of discretion permitted an agency to charge a fee based upon the "public policy or interest served, and other pertinent facts", a standard of the Appropriations Act. The Supreme Court, at p. 341, stated that the just quoted language:

> . . . *if read literally*, carries an agency far from its customary orbit and puts it in search of revenue in the manner of an Appropriations Committee of the House.
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> The lawmaker may, in light of the "public policy or interest served," make the assessment heavy if the lawmaker wants to discourage the activity; or it may make the levy slight if a bounty is to be bestowed; or the lawmaker may make a substantial levy to keep entrepreneurs from expoiting a semipublic cause for their own personal aggrandizement. Such assessments are in the nature of "taxes" which under our constitutional regime are traditionally levied by Congress. (Emphasis in original, footnotes omitted).

The imposition of interest by the Corporation is contrary to and barred by the very statute it administers, the Federal Crop Insurance Act, as amended in 1980. The 1980 amendments were:

> enacted to improve the Federal crop insurance program—to make it an operational (rather than experimental) program, to expand it to all crops and all counties, and to correct the deficiencies in its operations that have hindered its growth and acceptance by the Nation's farmers.[3]

Because Congress recognized that "[w]idespread participation by farmers [was] critical to the success of the Federal crop insurance program,"[4] it redesigned the Crop Insurance Act in two major respects to ensure success. First, Congress amended Section 507 (7 U.S.C. § 1507(c)) and stated that the Corporation's Board of Directors:

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[2] *U.S.* v. *Mississippi Tax Comm'n*, 421 U.S. 599, 606 (1975); the Supreme Court held a "markup" on alcoholic beverages to be a "tax".

[3] S. Rept. 96-254, p. 7.

[4] *Ibid.*

> *shall* to the maximum extent possible, . . . encourage the sale of Federal crop insurance through licensed private agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers. . . . (Emphasis added).

The importance of this passage is evident not only from its unequivocable exhortation "shall" but from its legislative history as well. In its bill on crop insurance (S. 1125), the Senate made no provision for a role by private agents and brokers in the sale of federal crop insurance. Instead, it would have permitted the Corporation's Board only to establish producers' committees and to contract with private insurance companies. In its amendments to the Senate bill, however, the House stated that the Board "shall to the maximum extent possible" use committees, contract with private insurers, and encourage sales through private insurance agents and brokers.[5]

The Conference Committee adopted the House provision and mandated that crop insurance "shall to the maximum extent possible" be sold through private agents and brokers. The conferees contemplated and rejected the more limited delivery system devised by the Senate and yet, notwithstanding this rejection, it is the Senate bill that the Corporation is heeding as if its provisions were the law. The Corporation, we will show, seeks to eliminate private agents from their proper, statutory role.[6]

The obligation to encourage the sale of federal crop insurance through independent agents is not an institutional obligation; it is an individual one as well. Congress did not limit its direction to the body corporate; instead it embraced the Board within its mandate and thereby made each Member of the Board accountable for fulfilling the laws of Congress and personally liable for any failure or breach.

The interest the Corporation will charge under its "Combined Crop Insurance Regulations" will be, as it has acknowledged, for its own benefit, to improve its own cash flow. This interest will be assessed only on federal crop insurance policies sold through private agents and brokers. The interest will be paid only by farmers who buy federal crop insurance through private agents and brokers; thus, these farmers are singled out and discriminated against. Moreover, the interest charged will be at an inflexible rate arbitrarily prescribed, that may be totally unrelated to the government's cost of money or to competitive forces.

We call upon each Member of the Corporation's Board to answer publicly how this arbitrary and capricious regulation encourages to the "maximum extent possible" the sale of federal crop insurance through independent agents and brokers. How does this regulation comply with the statutory mandate that each Board Member must obey and enforce? How does each Member's act approving this regulation comport to their fiduciary duties as public officials and as Corporate directors? How does this charge contribute to a "sound system of crop insurance" and how does it improve "the economic stability of agriculture"? These are the questions to which the law requires and for which it will obtain answers.

The second respect in which Congress redesigned the Crop Insurance Act to obtain the "[w]idespread participation by farmers [so] critical to the success of the . . . program" was to provide:

> For the purpose of encouraging the broadest possible participation in the insurance program, 30 per centum of each producer's premium . . . shall be paid by the Corporation. (7 U.S.C. 1508(b)(3)).

The almost singular importance of this provision was explained by the Senate Committee on Agriculture, Nutrition, and Forestry in its report (S. Rept. 96–254) on the bill that became the 1980 Amendments. The Committee, at p. 9, stated:

> . . . Federal cost-sharing serves two important functions in bringing more farmers into the program. The first is that it will reduce the premiums for all farmers, bringing insurance within the means of many who would not otherwise believe they could afford it. The second is it will reduce the premiums charged those farmers whose actual level of risk is below that assessed by the

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[5] Conference Rept. 96–430, p. 13.

[6] The conferees also intended "that the authority to contract with private insurance companies not be used to make any one insurance company the exclusive selling or servicing agent or underwriter for Federal crop insurance." (p. 13).

Having (1) rejected an opportunity to exclude private agents from the delivery system; (2) included private agents in the system with an order that they be encouraged to the maximum extent possible; and (3) cautioned the Corporation against a monopoly for one company, it is not conceivable the conferees and the Congress intended the Corporation to revoke their language and create a monopoly for reinsurance companies.

> actuarial base. For many such farmers, the premium will represent a fair price for insurance under the new program when it did not under the old.
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> * * * * * * *
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> More than any other factor, bringing the direct cost of insurance to the farmer down to a figure that is fair and that he can afford will give him the incentive to adopt crop insurance as his protection against natural disasters, rather than expect ad hoc emergency relief programs after disasters occur.

The Corporation's regulation is an administrative repudiation of Congressional intent and a repeal of a statute's specific provision. To the same extent that the Corporation levies and collects its tax it lessens the amount of premium subsidy that Congress ordered it to pay. Because the subsidy the Congress ordered was "[f]or the purpose of encouraging the broadest possible participation in the insurance program", a *fortiori*, the interest the Corporation has charged has the effect of discouraging "the broadest possible participation in the insurance program."

To satisfy its own financial needs, the Corporation is, in sum, withholding the subsidy that was designed and intended to satisfy its constituents' needs. The interest charge will raise the "direct cost of insurance" for those farmers who can least afford it. The charge creates a disincentive to buy crop insurance. It makes the price unfair and recreates a need for ad hoc relief.

The OMB/USDA Task Force, in its report referred to earlier, told the Corporation to adopt "a thoughtful amalgamation of debt management consideration with program objectives." Just as the Corporation ignored its Task Force's admonition to seek Congressional approval for an interest charge, so to has it failed to amalgamate program objectives. The Corporation has sacrificed public policy to administrative convenience. The law, however, recognizes higher values than administrative convenience.

II. THE PROPOSAL VIOLATES THE ADMINISTRATIVE PROCEDURE ACT

The Corporation is an agency of the federal government and is subject to the Administrative Procedure Act ("APA").

Section 553(b) of the APA requires the Corporation to publish general notice of proposed rule making in the Federal Register, absent actual notice which was not given here. Section 553(c) then requires the Corporation to "give interested persons an opportunity to participate in . . . rule making through submission of written data, views or arguments. . . .". Finally, the Corporation "is affirmatively required to consider 'all relevant matter presented' in the proceeding. . . ." (Attorney General's Manual on the Administrative Procedure Act, p. 31 (1947)). The Corporation has violated these mandates.

The Corporation published general notice of this rule making on April 1, 1982, with comments required to be submitted not later than June 1, 1982. As will be shown, however, by April 1 the Corporation had already adopted its putative proposal and, shortly after April 1, before comments could be filed much less considered, the Corporation implemented its interest regulation.

The Corporation's rule making proceeding is a charade, an illusion contrived to bolster a judgment already made and to satisfy the form, but not the substance, of the procedures required by law.

At its meeting on December 2-3, 1981, the Corporation's Board of Directors granted its then Chairman authority "to implement a program to improve the debt management practices and encourage early payment of premiums." Further, the Board granted the then Chairman "discretion" as to the measures such a program could include.[7] (Board Memorandum No. 14; Minutes, December 2-3, 1981).

On December 29, 1981, the then Chairman advised his Board that he had acted according to his authority. Based on the urgence of the Deparment of Agriculture's Inspector General and the OMB/USDA Task Force to improve the Corporation's debt management practices, accelerate its collection of premiums and reduce its extension of credit, the then Chairman recommended implementation of a program to move premium billing to an earlier date and charge annual interest of 18 percent on any payments not made within 30 days of the new, earlier premium billing date (Board Memorandum No. 28).

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[7] The measures over which the Chairman had "discretion" were:

"(a) Moving the termination for indebtedness dates earlier. (b) Moving the premium billing dates earlier. (c) Imposing a service charge when the premium becomes past due. (d) Imposing an interest fee when the premium remains past due. (e) Imposing a service charge for processing insufficient fund checks."

Sitting in secret, executive session on January 4-5, 1982, the Board acted on its then Chairman's recommendation. As shown in subsequent publications and conduct, however, the Board did more than subscribe to a proposal; it embraced and adopted a Corporate policy. Thus, in its January, 1982, issue of "All-Risk Update" announcing that "FCIC policies concerning the collection of premiums . . . *will* undergo *significant change* . . . (emphasis added), the Corporation stated:

> At the January 4-5 meeting, the FCIC Board of Directors *approved* a policy *amendment* which *will* encourage insureds to pay their premiums earlier. *The amendment becomes effective with the 1983 crop year.*
>
> The new premium payment rules call for unpaid crop insurance policies to bear interest. . . .
>
> Interest on the premium payments which become past due *will* begin with the final acreage reporting date in the county. (Page 1; emphasis added).

By its own words, the Corporation did not approve a proposal for public comment; it approved a proposal as if the public had already commented. It approved "new premium payment rules" that become "effective with the 1983 crop year."[8]

On January 8, 1982, the Corporation amplified on its announcement in "All-Risk Update" and published an "Improved Financial Management Plan" in a self-described "Fact Sheet". the "Facts," as announced in the Corporation's "Sheet", are:

> For many years, the Federal Crop Insurance Corporation (FCIC) has had an unusually liberal credit policy.
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> * * * * * * *
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> In an effort to improve its financial management program, the FCIC *has adopted a new plan* for the billing and collection of premiums. . . .
>
> . . . Beginning in 1983, [the current crop year] an interest charge, computed from the acreage reporting date for the crop, *will be added* when the account becomes past due. Additional *interest will accrue* until the account is paid in full. (Emphasis added).

The Corporation's "Fact Sheet" thus reconfirms that it "adpoted a new plan" months before it proposed its plan and sought public comment.[9]

One week after the Corporation published as a "proposal" the regulation it had adopted in January, it implemented its regulation and imposed its penalty on wheat growers. In an April 8, 1982 letter to wheat policyholders transmitting their 1983 crop year wheat policies, the Corporation called attention to "major changes" in the new policy, to wit:

> A new premium payment procedure will be implemented and the method by which interest charges on unpaid premiums are determined *has been* changed. Your premium *must now* be *paid* within 30 days from the date of first premium billing in order to prevent the assessment of interest charges. If the premium is not received by the Corporation within this time, *interest will accrue* at the rate of one and a half percent (1½ percent) simple interest per calendar month or part thereof on the unpaid premium balance starting the first day of the month following the acreage reporting date. (Emphasis added).

On April 21, 1982, the Corporation published a notice in the Federal Register (47 FR 17033) which embodied its April 8 letter to wheat policyholders. This notice, like the April 8 letter, did not announce a proposed rule; it announced the adoption of an interim rule reiterating the immediate applicability of the Corporation's annual 18 percent penalty on late premium payments.

The Corporation's abuse of the APA continued. On April 29, 1982, it imposed, by interim rules, its annual 18 percent penalty on barley crop insurance (47 FR 18315) and on oat crop insurance (47 FR 18319). In each case, including wheat, the Corporation stated it had been unable to seek comments prior to the adoption of its regulations because of an extant emergency. As we will show when we comment on those rules, no emergency existed and it if did it was of the Corporation's own making. The Corporation simply forgot that wheat, barley and oats are planted in the spring and that the rule its Board adopted on January 4-5 would have to be published in the Federal Register by February 15 to allow pro forma ratification by April 15.

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[8] Only as an afterthought did the Corporation's "All-Risk Update" pay lip service to the APA's rule making requirements. Assumedly because "specific wording for the premium collection . . . changes [had] not yet been structured", the Corporation stated that "proposed regulations" would be published in the Federal Register and that public comment would be accepted at that time. This statement, though innocuous on its face, served to forestall public comment until after the regulation was implemented.

[9] The "Fact Sheet" further states: "Specific regulations will be published in the Federal Register in the near future." This statement, too, is "Fact". The statement makes no representation that a proposal will be published, only that regulations will be published. And, given the Corporation's preoccupation with form, no doubt they will be.

The Corporation, however, was not really concerned with prior, adversative comment; adversative comment would be redundant, as the Corporation's interim rule notices acknowledged. Each notice states that the interim rule "will be scheduled for review so that . . . any amendments required can be published." These notices make no provision for possible repeal of the rules. Notwithstanding the merit of public comment, this possibility was foreclosed by prejudgment.

The Corporation's regulations violate the APA. The public has been denied its statutory right to notice, to comment and to consideration of its comments. If adopted, the regulations are void.

III. THE CORPORATION'S PROPOSAL VIOLATES EXECUTIVE ORDER 12292 AND SECRETARY'S MEMORANDUM 1512-1

Executive Order 12292 (February 17, 1981) seeks, among other things, to ". . . reduce the burdens of existing and future regulations . . . and insure well-reasoned regulations. . . ." To this end, the Order requires all agencies, in promulgating new regulations, to base their decisions "on adequate information" concerning the consequences of their action; to ensure, as a condition precedent to any regulatory action, that the potential benefits to society outweigh potential cost; to choose from among alternative regulations the one involving the least net cost to society; and, when setting regulatory priorities, to take into account the conditions of the particular industries involved and the condition of the national economy (46 FR 13194).

In implementing this Executive Order, the Department misperceived its mandates and, as a result, the Corporation ignored them.

On June 11, 1981, the Secretary of Agriculture published Memorandum 1512-1 to implement E.O. 12291. The Secretary's Memorandum, however, emasculated the Executive Order; it viewed the Executive Order merely as an Administration effort to "[reduce] the burden of Federal regulation on the American economy." The Memorandum ignored the Order's true focus and its salutary concern that regulations be based on "adequate information" and be cost effective to society.

As a result, the Corporation did not premise its proposal on any information, let alone, "adequate information", concerning the consequences of its action, for, as the Corporation has advised us under the Freedom of Information Act, "[t]here has been no study made on the frequency of late premium payments nor on the amount of monies generated by this change." Without such a study the Corporation cannot know the consequences of its action. It cannot know if the "frequency of late premium payments" justifies a penalty, or if a penalty will reduce their frequency or whether a penalty, if justified, will improve the Corporation's cash flow position, the only purpose the penalty serves. Nor can the Corporation know on whom the burden of its charge will fall most onorously. Will it fall on the large, financially entrenched corporate farmer? Or will it burden the young farmer just starting to eke a profit from family toil? And which of these two farmer groups is most responsible for the "frequency of late premium payments" and for the amount of late premium payments?

The Corporation's notice of "proposed" rule making states that a "Draft Impact Statement describing the options considered in developing this proposed rule. . ." is available upon request. This statement misleads; no options were considered as the Corporation's Impact Statement admits.

Under the caption, "Alternatives Considered" the Impact Statement provides:

> Inasmuch as the Corporation has been urged, through an audit by the Office of Inspector General and through an Office of Management and Budget (OMB)/USDA Task Force review to accelerate the collection of preimums thus curtailing the extension of credit to policyholders and improve the Corporation's cash flow, and as a result of the Federal Government's current involvement in the improvement of its debt management practices, *no alternatives were considered.* (Emphasis added).

If the Office of the Inspector General or the OMB/USDA Task Force did propose alternative regulations, the Corporation was obligated to consider them under E. O. 12292. In fact, the Inspector General and the Task Force did propose alternatives but the Corporation ignored them.

The Department's Inspector General, in Audit Report No. 599-13-KC, on which the Corporation purports to rely, recommended that the Corporation:

> Establish and implement *reasonable discounts* to encourage the prompt payment of premium balances. (P. 3, emphasis added).

The Inspector General specifically found that:

> *Improvements such as discounts* for early payment and revised billing procedure would enhance the Corporation's overall premium billing, collection, and debt management efforts. (P. 8; emphasis added).

This recommendation was not considered. The Corporation made no determination as to whether its proposal would better achieve its objectives than would the Inspector General's recommendation. It did not balance the costs to society of its regulation against the costs of the Inspector General's. And having failed in this regard, it could not determine one option to be less costly than the other.[10]

With equal dereliction and disdain, the Corporation also ignored the OMB/USDA Task Force study on which, too, it purports to rely. In its study, the Task Force discussed three alternative approaches to the Corporation's debt management obsession. Under the first alternative, the Corporation could have issued bills payable in full on the effective date of its policy and terminated its protection if not paid within 30 days (pp. 13–14). Under the second alternative, the Corporation could have collected premiums under a six month installment plan. Each installment would have carried a service charge to cover additional handling costs and interest would have been charged on any late installment paid (p. 14). Under the third alternative, the Corporation could have issued bills after crop planting time but granted an option to defer payment until harvest time, with interest at the Treasury rate charged during the interim (p. 14).[11]

The Task Force did not recommend the adoption of a specific alternative. Instead, it stated:

> The policies adopted should reflect a thoughtful amalgamation of debt management consideration with program objectives. Congress should be informed of proposed policies *before* they are implemented. (P. 15; emphasis added).

The Corporation did not consider each of the above options. It did not weigh them against the standards and objectives of the Executive Order nor against program objectives. The Corporation simply did not go through a "thoughtful amalgamation" as it was urged to do by the Task Force and required to do by the Executive Order.

Even apart from the Executive Order, the Corporation's proposal is repugnant to Secretary Memorandum 1512-1. In its January issue of "All-Risk Update", the Corporation characterized its interest penalty regulations as a "significant change". In its April 8 letter to wheat policyholders it characterized its "change" as "major". Yet, in the Federal Register the Corporation characterized its regulation as "not significant". This transfiguration did not occur by happenstance. The Corporation adopted the rubric "not significant" to avoid the regulatory impact analysis required by the Secretary's Memorandum for "Major Regulations", i.e., those that result in "[a] major increase in costs or prices for consumers".

By labeling its regulation "not significant", the Corporation has stated that a potential 18 percent increase in the cost of crop insurance is not a "major increase". But if an 18 percent increase is not a "major increase in costs" to farmers, what is?

The Corporation by its rubric violated Executive Order 12292's precept to consider the condition of the industry regulated and the national economy. Thus, by bureaucratic machination, the Corporation hurdled the barriers its Administration and its Secretary erected against the proliferation of costly, burdensome regulations.

IV. THE CORPORATION'S PROPOSAL SUBVERTS THE STATUTORY SCHEMATIC

The federal crop insurance program is a federal domestic assistance program (see, "Catalog of Federal Domestic Assistance Programs," Title-Crop Insurance: No. 10.450). The Corporation is aware of the designation its program enjoys as its putative notice of rule making demonstrates.[12]

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[10] In weighing the merit of the Inspector General's proposal it should be remembered that the Inspector General was appointed "without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations" and was charged by Congress "to provide leadership and coordination and recommend policies for activities designed . . . to promote economy, efficiency, and effectiveness in the Administration of . . ." the Department of Agriculture. (Inspector General Act of 1978, 5 U.S.C. App. I, § (a)).

[11] This latter proposal is materially different from the Corporation's reguation because of the interest rate to be charged.

[12] The Corporation appears to suffer an institutional schizophrenia in its attitude towards assistance. In Board Memorandum No. 6, October 2, 1981, the Corporation's then Chairman, after describing private, "extensive negotiations" with, and the desires of, the insurance industry, stated:

"The 1980 Federal Crop Insurance Act mandates that the insurance program be actuarily sound. In spite of this, there are some who view this program as a Government assistance pro-

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In light of this awareness, it is inconceivable that the Corporation would tax the beneficiaries of a federal assistance program—after all, the Department does not tax the beneficiaries of the federal food stamp program it administers. Nevertheless, the Corporation is taxing farmers who purchase federal crop insurance though independent agents and brokers. Accordingly, farmers must not be the beneficiaries of the Corporation's federal assistance program. Who, then, are?

This a cube that does have a solution; the Department has written an instructive bill of particulars.[13]

After the passage of the 1980 Act, and notwithstanding the benefits it contained for them and the concessions it made to them, many reinsurance companies still refused to participate in the Act's reinsurance program because they had to comply with Executive Order 11246. Apparently, the reinsurance companies found it burdensome to take affimative action to employ women, Blacks, the handicapped, Vietnam veterans and other protected minorities.

To relieve reinsurance companies of this technicality, the Department pandered for them the assistance of its sister agency, the Department of Labor ("Labor"). The Department, on June 4, 1981, asked Labor to detemine that a contract between a reinsurance company and the Corporation whereby the two, primarily with federal funds, jointly underwrite insurance risks was not a contract and that the reinsurance company was not a federal contractor.[14]

The factual and legal arguments the Department advanced to support this novel hypothesis remain secret. Both the Department and Labor have refused to release the Department's request. Labor, however, did release the August 10, 1981 response of its Solicitor to the Department. Based on this response we can speculate as to what the Department said in its request and we certainly can understand the Department's reluctance to expose itself to public purview.[15]

The Solicitor of Labor thoroughly considered and regurgitated the information provided him by the Department. He noted, for example, that farmers who purchase federal crop insurance receive a premium subsidy and that farmers who purchase private crop insurance receive a federal subsidy and he noted that the government pays the operating and administrative costs of private insurers "to the same extent as it pays such costs from general revenues with respect to direct agreements with farmers." Finally, the Solicitor noted that reinsurance agreements are an "integral part" of the 1980 Act.

The Solicitor failed to note, however, that the sale of federal crop insurance by private agents and brokers is also an integral part of the 1980 Act and that their contracts with the Corporation are government contracts for the purposes of E. O. 11246. Given the care otherwise shown by the Solicitor in his thoughtful albeit misbegotten analysis, his omission of these two material facts is curious.

Based on the information given him by the Department, the Solicitor of Labor concluded that "reinsurance agreements are properly characterizable as Federal financial assistance agreements." In other words, based on the view of the Department, reinsurance companies are the beneficiaries of the federal assistance crop insurance program. And, based on the 18 percent tax imposed on farmers, they are its only beneficiaries.

The imposition of an 18 percent tax on late premium payments is but another step in an overall Department plan to make its federal crop insurance sold through independent agents and brokers noncompetitive with reinsurance.[16]

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gram rather than a self-help insurance program. Even though there are members of Congress (sic) who prefer that FCIC be a welfare or assistance program, management intends to comply with the spirit and intent of the law and provide a sound insurance program."

On April 12, 1982, the Department announced that it had transferred supervision of the Corporation to the Under Secretary for Small Community and Rural Development "to permit the Department to deliver a complete package of credit and insurance assistance to farmers." Immediately thereafter, the Corporation attached an 18 percent tax to its insurance assistance program. *Sic transit gloria.*

[13] Cf., Job 31:35: "Oh that mine adversary had written a book."

[14] See, "Analysis of Certain Operations of the Federal Crop Insurance Corporation", Report of the U.S. General Accounting Office No. CED. 81-148, July 30, 1981,pp.1-2, 13-14.

[15] "Shame may restrain what law does not prohibit."—Seneca.

[16] If reinsurance companies charge interest at all on late premium payments, they gain an important advantage by their ability to fix their own rates which need not be tied to the Corporation's cash flow needs.

The Corporation has stated that it is an industry practice to charge such interest. The source of the Coporation's information is unknown. It has not held hearings or otherwise created a public record to determine whether interest is charged uniformly and, if so, the amount.

On October 2, 1981, in Board Memorandum No. 6, entitled, "Expansion Philosophies", the Corporation's then Chairman stated that "the present expansion philosophies . . . in effect" include: "Deliver the vast majority of FCIC insurance through the private insurance sector with major emphasis on the reinsurance concept." This "major emphasis" on reinsurance, however, soon changed.

Perhaps in secret, executive sessions or as a result of "extensive negotiations" with the reinsurance industry, the Corporation soon decided that its "major emphasis" on reinsurance did not adequately contradict the statute and discourage "to the maximum extent possible the sale of Federal crop insurance through licensed private insurance agents and brokers". On November 24, 1981 the Corporation's then Chairman proposed, as a long term Corporation goal: "Move to a position whereby the reinsurance program is the primary delivery system". (Board Memorandum No. 17, p. 3; emphasis added). The Board adopted this goal "in principle" at its meeting on December 2-3, 1981, leaving to its officers' discretion their inherent power to implement "principle".

The Corporation has published a graphic projection of the crop insurance delivery system it perceives and towards which it is working. During a period in which it foresees crop insurance sales growing rapidly, the Corporation projects that the percentage of business written by reinsured companies will metamorphose from 4 percent in 1981 to 65 percent in 1984 and that master marketers, while they will grow from 1 percent in 1981 to 35–45 percent in 1982, will decline to 25 percent in 1984. Sales made under agent sales and service agreements, which amounted to 55 percent of all sales in 1981, will decline to 10 percent in 1984.

Such a marked, rapid change could not occur in the fair, competitive environment envisaged by the statute. As is demonstrated by the small share of the market served by reinsurance companies in 1981, farmers simply are not satisfied with the product those companies offer. Their protection is too limited. Private companies actuarially cannot assume and reserve against the multi-risks of natural disaster inherent in crop insurance. This is why the federal program was born and must survive. Farmers should not be put in the position of choosing between inadequate, expensive protection or no protection at all. Yet, this is the only choice the Corporation offers by its refusal to encourage at all, let alone to encourage "to the maximum extent possible" the sale of federal crop insurance by private agents.

The Corporation reimburses reinsurance companies for certain administrative and operating costs; it does not reimburse master marketers who incur the same or similar costs. The Corporation makes advance payments to reinsurance companies for their costs notwithstanding its cash-flow problems; it does not make advance payments of commissions to master marketers because of its cash flow problems.

The Corporation has fostered an atmosphere in which unethical sales practices are becoming the accepted norm and, in violation of its own procedures, it has permitted the transfer of business to those who engage in those practices. It has failed to promulgate and enforce uniform procedures applicable in all of its regions. The Corporation has been too busy in its unauthorized pursuits for those mundane matters.

As is to be expected, the public has paid for the Corporation's contortions and neglect. This price is measured in the rate of insurance cancellations the Corporation is suffering, cancellations that ultimately will be reflected in farm bankruptcies and increased consumer costs when the natural disasters the Corporation's actuarial tables anticipate, in fact, eventuate.

The Corporation's sales position reports (Form FCIC-AB400-1) show that the number of acres on which insurance was cancelled between November 3, 1981 and March 1, 1982, increased from 1,331,278 to 12,843,414 (960) percent). The dollar amount of premiums lost to the Corporation between November 3, 1981 and February 2, 1982, the last time the Corporation reported premium dollar cancellations, increased from $8,134,747 to $81,028,213 (996 percent).[17]

CONCLUSION

The provisions and policies of the Federal Crop Insurance Act are clear and uncomplicated. The salutary intent of Congress is manifest in its statute's thoughtful articulation. Thus, it cannot be the law that the nation's farmers find repugnant. They simply find more mercy in the vicissitude of a tornado than in the caprice of an overbearing, callous bureacracy.

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[17] Based on its "survey" of 233 (or .33 percent) of the 70,000 farmers who had cancelled federal crop insurance by December 31, 1981, the Corporation sees "no cause for alarm". "All-Risk Update", May, 1982, p. 4.

The Corporation should desist from its illegal distortions of the statute and its disdain for public policy. The proposed rule and the interim rules should be withdrawn and any interest collected should be refunded immediately.

Respectfully submitted,

LARRY M. ROSENSTEIN.

STATEMENT OF ERNEST L. ROSS
President of E. L. Ross Agency, Inc.
Before the Agricultural Production Marketing and Stabilization of Prices Subcommittee
May 21, 1982

Mr. Chairman:

I am happy to have the opportunity to appear before your committee today. As an officer and managing general agent for three Farm Mutual Insurance Companies, I have the privilege of serving and knowing thousands of farmers in rural North Carolina. Our companies serve these farmers by providing them with complete coverage in property, casualty and crop hail insurance--and, we are pleased to say that we do it through the use of independent agents from the private sector! One of our companies has a reinsurance contract with FCIC with a $1,500,000.00 MPCI premium allocation. My agency will write up to $500,000.00 of this allocation. My primary activity with all risk crop insurance has been as an agency sales and service contractor commonly called a Master Marketer.

My involvement with Federal Crop Insurance began when many of our agents acquired the individual sales and service contracts for the 1981 crop season. As a part of the private insurance sector, serving the farm community, I applied for the Master Marketing agreement in October of 1981--and began to build an organization. That organization, today, consists of two separate serving offices in North Carolina. While one of these offices handles quality assurance and supplies, the other concentrates on management, data processing and watts line communications between nine field supervisors and some 300 agents. These agents sell FCIC insurance under my Master Marketing contract. More than 400 years of combined FCIC experience is represented by these supervisors and agents. When the figures are finalized, we anticipate that E. L. Ross Agency, Inc. will service more than 10,000 North Carolina farmers that were previously serviced by FCIC and other service points. We also project that, through the efforts of E. L. Ross Agency, Inc. in 1982, approximately 2500 will become new participants in the All Risk Insurance program.

The accomplishments of E. L. Ross Agency, Inc. are highlighted here simply to illustrate the type work being done by Master Marketers across the United States. The Master Marketers, in my judgment, have been a vital force in the successful implementation of the FCIC Act--during the 1982 crop year.

In February of 1982, FCIC conducted a two-day meeting in Kansas City for Master Marketers. At this meeting the Master Marketers gathered separately and appointed four men to serve as the Master Marketing Association Development Committee. Those appointed were: Mr. Tom Buchannan - Buchannan Associates - Texas, Mr. Billy Joe Bull - Southern Crop Insurance Agency - Mississippi, Mr. Dean Cole - Thayer Insurance Agency - Kansas, and E.L. Ross - E.L. Ross Agency - North Carolina. On March 30, 1982 the newly-formed committee met with Mr. Melvin Sims, past chairman of FCIC in Washington. D. C. The committee members had received proxies from about 1/2 of the 70 Master Marketers giving them the authority to act on their behalf. The primary purpose of this meeting was to obtain clarification of various 1983 agency and sales agreement changes and to seek amendments to other sections of the contract.

A memorandum prepared by Mr. Sims for the FCIC Board of Directors is available upon request. The acting FCIC Chairman, Merritt Sprague, responded to this meeting and memorandum in a letter dated April 22, 1982 stating: "The 1983 agency sales and service agreement has been finalized and no amendments are planned at this time."

It is still the position of the Master Marketing Association Development Committee that the 1983 contract should be amended in several areas. I would like to address four of those at this time.

1. The old 1982 agreement provided that: if the corporation was unable to furnish the agencies with necessary printing materials and actuarials, the agency could be reimbursed for their incurred printing cost under certain conditions. This wording has been removed from the 1983 contract. This causes great concern since the 1983 commissions are unchanged and no protection is provided for increasing commissions if the Master Marketers incur additional expenses at the request of FCIC.

Our concerns seem to be well founded in that the Master Marketers received a certified letter from the acting Field Operations Director of FCIC dated April 22, 1982. The letter stated that we must limit our 1983 wheat, barley and rye actuarial orders to a maximum of five per county. After furnishing one each for service offices and one for our field supervisors, we will not have enough to supply even one agent if he should have as many as three sales representatives in the field. It would seem reasonable that FCIC provide additional actuarials and charge printing cost to the Master Marketers for copies in addition to the five that we may desire and need.

2. The indebtedness date for 1983 all-risk crop insurance is set for September 30, 1983 for both FCIC contracts and MPCI contracts that are reinsured by FCIC. This date is too early in most farm communities and for farm commodities such as soybeans, which are generally harvested in November. Farmers insured through Master Marketers will be charged interest at 1 1/2 per cent per month on premiums not paid by October 1, 1983 with the interest being retroactive back to the acres reporting date in June or July. Reinsurance companies interest is also set at 1 1/2 per cent but will begin on October 1, 1983 rather than retroactive to the acres reporting date. Depending upon the various state lending laws, this potentially creates a 4 1/2 per cent differential in the farmers insurance cost between the two delivery systems. The 1983 reinsurance contract Section 1 (b) states that the reinsurance policy forms shall provide coverage identical to the coverage provided by FCIC policies at premium rates not less than those used by FCIC.

This retroactive interest provision of the FCIC insurance contract should be reviewed and amended to reflect the farmers cash flow relative to crops and geographic locations.

3. The Master Marketers are paying the same basic commissions to sub-agents and agents that the reinsurance companies are paying to their agents, generally 15 per cent on new business and 10 per cent on transfer or carry over business. The Master Marketers contract, therefore, provides a three per cent differential plus a possible two percent bonus for a total of 5 per

cent for Master Marketers to use as administration budget to handle costs of contracting agents, training agents, supervising sales, quality assurance, data processing and hopefully some margin for profit. The two per cent bonus portion represents 40 per cent of the potential operating budget for the Master Marketers and its being rewarded is subject to the sole discretion of the FCIC management. This 2 per cent bonus is the difference in my agency (and I believe in most agencies) being in the red or in the black at the end of a crop year.

This two per cent bonus must be included as a regular commission and administrative cost if the Master Marketers are to continue in business.

The 1983 reinsurance agreement provides that the reinsurance companies will receive 55 per cent of their anticipated commissions and administrative expenses after the 1983 acres reports are received during mid year and the other 45 per cent balance when premiums are paid in the fall. In contrast, the Master Marketers contract withholds all funds (commissions and administrative expenses) until the fall of the year after premiums have been paid in full by the farmer. It will be very difficult for many Master Marketers to finance the agency training and quality assurance service that are required by the Master Marketing contract for an entire year with no cash flow. This seems to be a grave injustice to the Master Marketers particularly when the final 1983 sales and service figures should show that the Master Marketers were the primary thrust among the private sector during the 1982 crop year. The Master Marketing contractors are required to make great expenditures all during the year and should receive a portion of their administrative expenses at least as early as reinsurance companies receive a portion of theirs.

4. At the March 30, 1982 meeting with Melvin Sims in Washington, the Master Marketing Association Development Committee expressed great concern for better communications with FCIC management.

One area discussed was data processing where more Master Marketers have gone to the same considerable expense to develop software to handle sub-agents commissions and to audit FCIC data. We desire to work with FCIC in data processing and other areas to reduce operational duplications thereby reducing the farmers cost as an end result. Most Master Marketers could be in a position to transmit applications and acres report information on diskettes by the 1984 crop year.

We need a working relationship with FCIC and a contract which would facilitate this type of progress being made.

There has been much discussion by FCIC and the private sector relative to requiring persons marketing all risk crop insurance to be licensed by their respective state insurance departments. I support this proposal and further suggest that these agents be required to be in the insurance business receiving a significant portion of their earned income from insurance activities. An exception to this license requirement should be provided for those agents and past FCIC employees who have had three or more years experience in all risk crop insurance.

New in 1982, was the individual yield classification which was offered by FCIC. This actuarial approach has great potential for improving the overall program since the farmer, over a period of years, can set his own individual insurance coverage. The timeliness of the IYC release and ASCS involvement came too late to have much impact on the 1982 spring crop sales. I encourage FCIC management and ASCS to work diligently in the education and promotion of the individual yield classification. It can be a great boost to FCIC participation in the years to come.

One segment of the farm community that I must defend is that of the small family farmer. For him, I request special considerations. His small scattered acreage requires the same service and Federal crop coverage as do the thousands of acres owned by the successful, well-established soybean farmer in North Carolina. I believe that servicing the smaller family farms will become a problem area in 1983. FCIC individual agent contracts (not available in 1983) provided for a $25.00 minimum commission per contract regardless of premium amount. Both Master Marketers and reinsured companies will be pressed to allow more than their regular commissions for this business. A minimum commission or administrative cost reimbursement should be considered by FCIC if these family farmers are to be properly serviced in the future.

I express deep appreciation to the Raleigh, North Carolina Field Operations office for their tremendous support and assistance. Mr. R. T. (Bud) Forrest, Field Operations Director, and his staff have been most cooperative during a very difficult and volatile time for federal crop insurance. All the FCIC personnel from Mr. Forrest to the field supervisors have worked closely with us; and I feel we have been of great assistance to each other. We have invited the FCIC personnel to attend all of our various training sessions throughout North Carolina. In the last few weeks we have had district directors and their field supervisors attend our acres report training sessions where they have met our agents and established a close working relationship.

It is my understanding that the field operations offices of Federal Crop Insurance Corporation do not have any jurisdiction over reinsurance companies during their sales training, sales and adjusting activities. This FCIC policy is creating some differences in actuarial interpretations, sales information and other areas of activity. I strongly recommend that the field operations offices be structured to work closely with the reinsurance companies as they are working with the Master Marketers for the benefit of the private insurance sector and particularly the farmer.

One of the most important issues being presented at this hearing and discussed all the way from Washington down to the farmer who pays the premium, is the proposal by some of the private sector to remove the peril of hail from the FCIC Act of 1980. I have done a personal survey with farmers in our community that carry federal crop insurance and those who have elected not to carry federal crop insurance. These farmers overwhelmingly request that the peril of hail be retained in the FCIC contracts - particularly tobacco. This is evidenced by the tremendous participation in North Carolina by the tobacco farmer. In 1981 some 28,000 North Carolina tobacco farmers participated in the federal crop insurance program insuring 45,000 tobacco producing farms - or 70 per cent participation. During this time the crop hail premiums have also increased in North Carolina. I realize that in some parts of the country, hail damage to grain crops is a very serious problem. However, in North Carolina during a 17 year period from 1963 to 1979, the peril of hail represented less than 1 per cent of the losses paid out by federal crop insurance corporation on the corn crop. If the peril of hail was removed from the Act, there would be no significant change in the insurance premium for the corn farmers in North Carolina, yet their coverage would be reduced and the occasional hail storm damage would not be covered. In my fourteen years of writing crop insurance, I have never written a hail policy covering corn.

Tobacco is a little different picture in that during a 32 year period from 1947 to 1979, the peril of hail represented 15.6 per cent of the losses paid by FCIC to the tobacco farmers in North Carolina.

Should the peril of hail be removed from the FCIC Act of 1980, this 15 to 16 per cent reduction in tobacco premium would not be sufficient to purchase the present type of protection offered by the private sector. I appreciate the effort made by the private sector to issue a companion hail policy covering the first 25 per cent of tobacco crop value, however, I could not support legislation to remove the peril of hail from the Act until the private sector has in place a policy comparable in coverage to that currently offered by FCIC.

In today's tobacco farming practices where automatic harvesters and bulk barns prevail, damage occurs that would never have been acceptable 20 years ago. I feel that one major reason the current FCIC tobacco coverage is so widely accepted by the farmer is that he realizes that light hail damage (10 - 25 per cent) does not significantly affect prices at the market.

As one farmer told me last week, "I'd hate to lose the option to buy this good basic hail coverage as part of Federal Crop. Please don't take it out."

It is my recommendation that the crop hail industry work closely with the actuarial division of FCIC and the Farm Community to develop crop insurance policies comparable to FCIC coverages—and acceptable to the farmer. With this accomplished, I would support the removal of hail from the FCIC Act of 1980.

STATEMENT OF THE FLORIDA FRUIT AND VEGETABLE ASSOCIATION
4401 EAST COLONIAL DRIVE
ORLANDO, FLORIDA 32814
ON
THE FEDERAL CROP INSURANCE PROGRAM
BY
JOHN M. HIMMELBERG, ESQUIRE
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Florida agriculture is a leading industry in Florida and enjoys a position of major significance in U.S. agriculture. Florida ranks eleventh nationally and first in the Southeast in agricultural sales. In 1979, receipts from farm marketing of Florida agricultural products totaled close to $4 billion.

Florida's 35,000 farm operators lead the nation in the production of 15 commodities and provide employment for 1 in 5 civilian workers in the state.

The American farmer now feeds in excess of 70 people in addition to himself. No other country in the world can boast of such efficiency. No other American work sector has greater productivity. However, because agriculture is such a risky business, we must be vigilant in protecting and insuring the growth of the farm sector.

The federal crop insurance program is a vital cog in the farmer's life. Literally, it can mean the difference between continued farming and bankruptcy.

Agricultural policies, therefore, must be responsible, sound and realistic. To the extent that the crop insurance program enables farmers to achieve their goals of producing abundant, high quality and nutritious food for our Nation and for the entire world, it should be maintained. To the extent that the Federal Crop Insurance Corporation (FCIC) has fallen short of its goal in assisting the farmer and has experienced internal inefficiencies, it should be strengthened.

Because the Disaster Loan Program is no longer available for Florida agriculture, the FCIC can fulfill a vital need for Florida farmers.

The FCIC has taken a first step in Florida by undertaking a Pilot Crop Insurance Program for Southwest Florida. The Association fully endorses this effort. But, more must be done. The FCIC cannot stop here.

Florida needs prompt action by the FCIC now. The Association's attempts to initiate federal crop insurance coverage for Florida so far have been unsuccessful.

Florida has experienced two freezes back-to-back which have left a number of growers with nothing to replace crops or keep these farmers in business. Florida's farmers need coverage now and specifically for freeze and excess rain damage.

The Association is aware that much ground work is needed before such a program can be put in place in Florida. The Association realizes that the goal of instituting a nationwide insurance program in the near future is out of reach of the FCIC; however, we see no serious impediment to the FCIC's implementation of a crop insurance policy for Florida.

The Association's membership has gone on record in placing crop insurance protection on its list of top priorities. The Association, the University of Florida, the Florida Farm Bureau, and the Commissioner of Agriculture, Doyle Connor, all are supportive of the policy and, more importantly, are standing by ready to assist FCIC in its efforts to implement a program in Florida. And, there now exists a substantial amount of actuarial data which the FCIC indicates is needed. Background information, climatological data, crop data and historical information is available right now in the State.

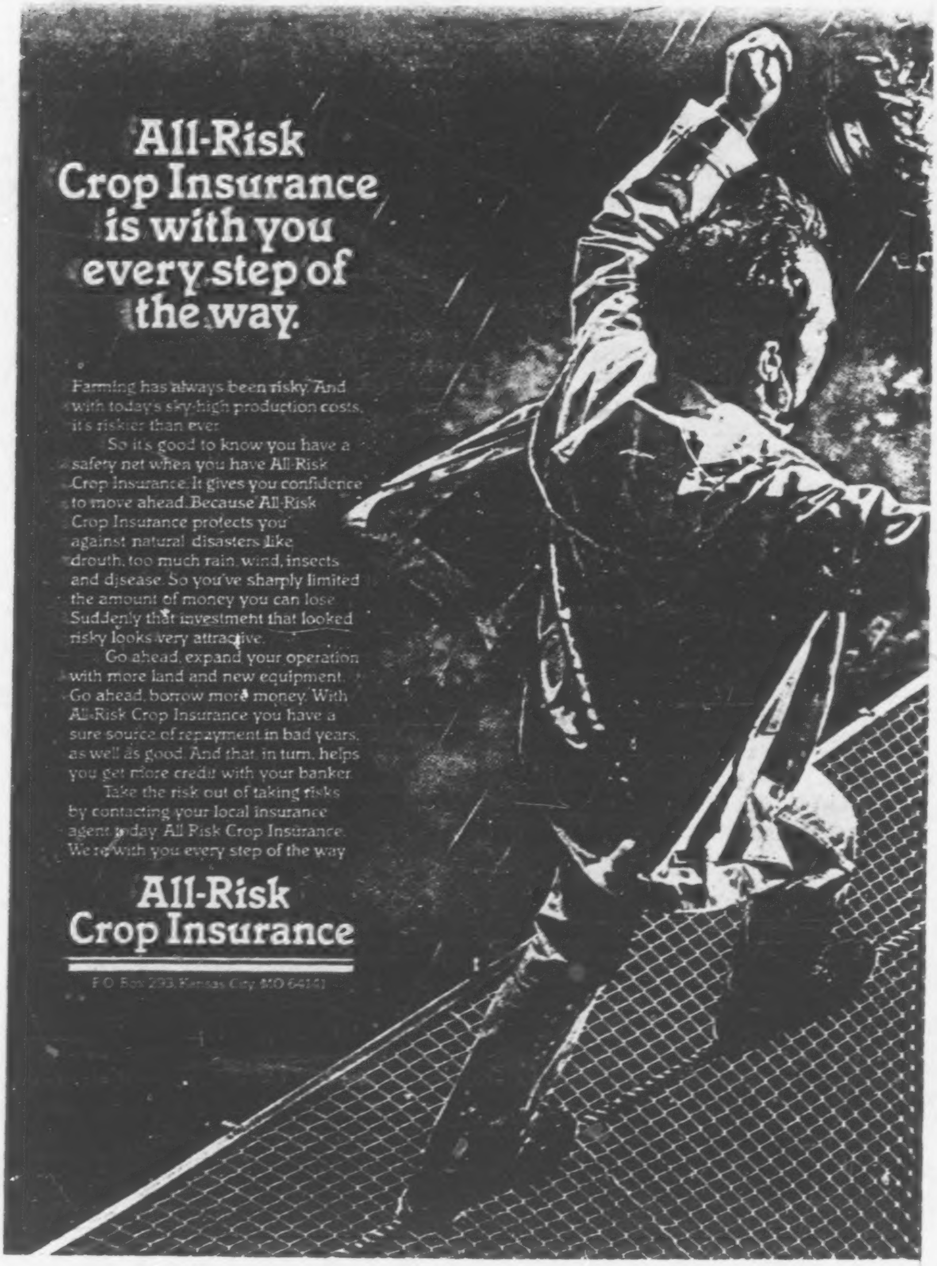
Mr. Chairman, what we need is for the FCIC to determine now that it is appropriate and much needed to institute a crop insurance program for Florida crops. Secondly, someone from the FCIC must be identified as the individual responsible for implementing this program. And, thirdly, we need to get on with the program right now.

The Association stands ready to assist this Committee and the FCIC in developing and obtaining any and all information needed to support a crop insurance program in Florida. And, of course, the Association urges this Committee to take whatever action is needed to make sure that such an idea becomes a reality.

Florida farmers, like farmers across the country, need this insurance, and they look to Congress for help in assuring that they get it.

The Committee must address the internal problems that have plagued the FCIC but it is important that this Committee strengthen the FCIC so that it can fulfill its Congressionally-mandated charter of providing the crop insurance that is desperately needed.

[The following reprint was inserted by Senator Bentsen; see p. 3 for oral references.]



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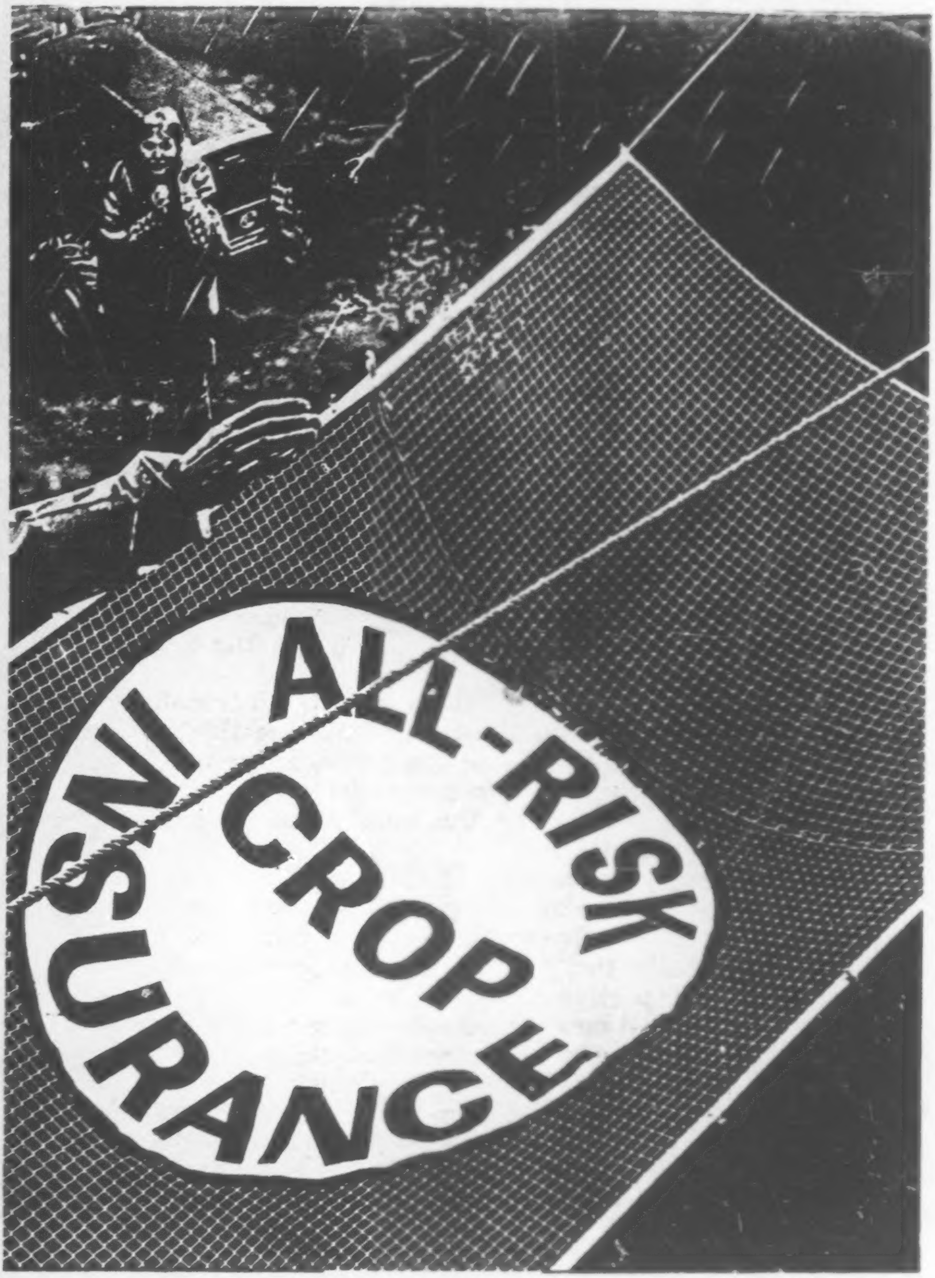

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